

ACCOMPLISHMENTS

of the

JUL 77

65th LEGISLATURE

LEGISLATIVE REFERENCE LIBRARY
P.O. BOX 12488 - CAPITOL STATION
AUSTIN, TEXAS 78711

REGULAR SESSION

JANUARY 11

MAY 30, 1977

TEXAS LEGISLATIVE COUNCIL

P.O. BOX 12128, CAPITOL STATION

AUSTIN, TEXAS 78711

ACCOMPLISHMENTS OF THE 65TH LEGISLATURE—REGULAR SESSION

A SUMMARY

TEXAS LEGISLATIVE COUNCIL
LIEUTENANT GOVERNOR WILLIAM P. HOBBY, CHAIRMAN
SPEAKER BILL CLAYTON, VICE-CHAIRMAN

EXECUTIVE DIRECTOR: Robert E. Johnson
P.O. Box 12128, Capitol Station
Austin, Texas 78711

TEXAS LEGISLATIVE COUNCIL

Research and Reports

Executive Director	Robert E. Johnson
Assistant Director	John T. Potter
Director of Legal Affairs	William B. Wilmot
Revisor of Statutes	Robert E. Freeman
Director of Research	Julia Faye Neel

TABLE OF CONTENTS

Introduction	1
State Finances--Taxing and Spending	4
The Legislature	10
State Officials, State Departments and Agencies, State Employees, and Examining and Licensing Agencies	11
Public Lands and Resources	23
Water	25
Public Education	30
Higher Education	33
Family Law	38
Welfare	40
Aging	42
Elections, Voting, and Political Campaigns	42
Traffic Safety and Motor Vehicles	48
Highways	52
Criminal Law and Procedure	53
Law Enforcement and Corrections Systems	57
Courts and Court Officers and Employees	60
Probate	73
Civil Remedies, Liabilities, and Procedures	77
Local Government	80
Agriculture and Livestock	89
Alcoholic Beverage Control	91
Environmental Protection	93
Animals	94
Business Regulation	95
Mental Health and Mental Retardation	102

Health and Hospitals	104
Handicapped Persons	108
Insurance	109
Workers' Compensation	117
Women and Sex Discrimination	120
Labor	120
Natural Resources and Energy	122
Parks and Wildlife	125
Veterans' Benefits and Military Affairs	129
Validating Acts	129
Proposed Constitutional Amendments	130

APPENDIX

Certified Appropriations Out of General Revenue	135
Legislation Vetoed by the Governor	137
Resolutions Authorizing Interim Studies	143
Topical Index	151
Numerical Index	153

ACCOMPLISHMENTS OF THE REGULAR SESSION OF THE 65TH LEGISLATURE

JULY, 1977

INTRODUCTION

Before the dust on final action of the 65th Legislature's regular session had settled, rumors of a called session to reach agreement on the aborted public school finance bill were raising new clouds in the Texas Capitol. Then, less than two weeks after adjournment on May 30, 1977, Governor Dolph Briscoe announced that he was tentatively planning to call the legislators back to Austin on July 11, hopefully after education committees in the two houses had reached an agreement on legislation to meet the needs of all public schools of Texas.

The volume of work of the 65th Legislature was certainly impressive. From the day the session started on January 11 until it adjourned on May 30, there were 2,267 bills introduced in the house of representatives and another 1,336 introduced in the senate. The score on final passage was considerably lower, with 439 house bills and 458 senate bills finally enacted. Apparently, the process of sifting out "bad" legislation never worked better, and very few essential bills fell by the wayside.

The greatest casualty, of course, was House Bill 750, the public school finance bill, which made a gallant effort at survival but had its life snuffed out about 20 minutes before the session ended. After days of meetings, the conference committee trying to iron out differences between house and senate versions of the bill finally reached agreement and sent its report to the two houses. The \$900 million finance measure could not muster the required two-thirds vote in the house to take the bill up, the majority necessary to suspend the rule providing that conference reports in the house cannot be considered on the last day of a session unless they have been on members' desks for two hours. Needing at least 100 votes, the bill died when the tally was 92-55. This was at 11:40 p.m. A filibuster in the senate had the same deathblow effect.

The present public school finance program has long been in disrepute because of advantages given rich school districts over poor districts, a situation resulting from the fact that real property is the tax base for financing and, of course, land and property values vary widely throughout the state.

Unless otherwise indicated by a date inserted in parentheses immediately following first mention of a bill, the effective date of the bill is August 29, 1977, the date on which all 90-day bills take effect.

Although the public school finance bill is yet to be enacted at a special session, the important teacher retirement legislation, House Bill 612 (June 10, 1977), met with success. The measure increased benefits for all retired teachers, particularly for those who retired at very low salaries and are finding it exceedingly difficult under inflationary conditions to get by on existing monthly retirement incomes.

The fate of another vital issue was more satisfactory than school finance. House Bill 1048 was introduced early in the session with the express design of reducing costs of medical malpractice insurance. Certain specialists in the medical profession have found it necessary to carry policies costing \$50,000 and more. As a result, doctors have generally passed these charges along in increased patient fees and have further inflated the already overpowering costs of medical care for Texas citizens.

Like the public school finance legislation, the malpractice bill did not get back to the floors of both houses from conference committee until the waning hours of the session. Unlike public school finance, however, malpractice insurance legislation made the grade and was finally enacted into law. The bill was signed by the governor on June 16 and becomes effective on August 29, 1977, the effective date for all 90-day bills.

In all, bills enacted amounted to about one-fifth of all those introduced and ranged over a wide area. A record \$15.5 billion budget bill, \$3.4 billion over current spending levels, was adopted to cover state spending for the next biennium. Remarkably, for the first time in 20 years this general appropriations bill, House Bill 510, crossed the governor's desk intact, without a single line-item veto, and becomes effective on September 1, 1977, the beginning of the new fiscal year.

The governor's series of anticrime bills also met with success. One measure, Senate Bill 152, provides for mandatory supervision of all persons released from prison. Another, Senate Bill 39 (June 10, 1977), creates the Adult Probation Commission, and still another, Senate Bill 151, provides for more severe penalties for the commission of offenses by organized crime.

In the same area, by enacting House Bill 945, the legislature voted to substitute lethal injections for the electric chair as the method of carrying out death sentences.

Another bill enacted with the adoption of a conference committee report on the final day was Senate Bill 157, which expands the use of oral confessions as evidence.

Although not exactly anticrime bills, two bills affect the state's

justice system by creating a large number of new district courts. Senate Bill 330 (April 1, 1977) creates 23 new judicial districts and another omnibus district court bill, Senate Bill 368 (September 1, 1977), adds 25 new judicial districts. These new courts should help ease the congestion now prevailing in court dockets throughout the state. Crowded dockets in the county courts were also recognized with the creation of additional statutory courts in 13 different counties.

One controversial piece of legislation that was enacted would have prohibited insurance or driver's license penalties for speeding between 55 and 70 miles an hour, but this measure, Senate Bill 34, was vetoed by the governor. His message indicated that the enactment of such a law could jeopardize the state's share of federal highway funds inasmuch as their allocation is dependent on a 55-mile-an-hour speed limit. Texas has such a speed limit, but the new legislation's removal of penalties for violation could have made it suspect in the eyes of federal authorities.

Other legislation pertaining to the state's highways was a \$528 million "emergency" highway appropriation bill in the early days of the session. The measure, House Bill 3 (April 12, 1977), was another piece of legislation given high priority by the governor, who agreed with the State Highways and Public Transportation Commission that the department was "facing not only bankruptcy but also the possibility of not having enough money for matching funds to get federal money." The bill provides a long-range plan for financing future highway construction with the promise that by 1990 the \$11 billion backlog of highway projects will be whittled to \$3 billion.

In the important area of energy, of great significance was the enactment of Senate Bill 185, authorizing the condemnation of land for rights-of-way for coal slurry pipelines. The legislation offers the first step toward moving coal in water solution to Texas from Colorado. House Bill 1799 (September 1, 1977), the Texas Energy Development Act of 1977, and Senate Bill 1172, the Energy Policy Planning Act of 1977, recognized the critical energy needs of this state and the nation.

Aimed at reducing the costs of state government and eliminating overlapping duties and functions of state departments and agencies, a "sunset" law, Senate Bill 54, was passed to provide for periodic review of state agencies. Should an agency fail to justify its existence, it would face extinction automatically. State departments and agencies are treated in other legislation, Senate Bill 1139 (September 1, 1977), which combines the three major state water agencies--Texas Water Rights Commission, Texas Water Development Board, and Texas Water Quality Board--into a single new Department of Water Resources.

Since Texas failed to get a new constitution, the old patchwork method of proposing constitutional amendments resulted in 15 such proposals to come before the Texas electorate, 7 to be voted on in 1977 and another 8 in 1978. The wide range of subjects encompassed is discussed in a special section of this report on constitutional amendments.

New attention was focused on Texas election laws with the creation of a 17-member election commission authorized to recodify all election laws. House Bill 1700 creates the commission, which will conduct the study on recodification with the goal of completion prior to the convening of the 66th Legislature in 1979.

For the first time since 1965, the statute including the rules governing use and display of the Texas Flag was amended. The major change made by Senate Bill 18 allows the flag to be displayed 24 hours a day when a patriotic effect is desired, provided the flag is properly illuminated during the hours of darkness. The language of the act is changed somewhat to make the provisions permissive rather than obligatory and to modernize several terms and concepts.

STATE FINANCES--TAXING AND SPENDING

Taxing

The credo assigned the 65th Legislature by the governor was "no new taxes," and basically, legislators held the line. Nevertheless, more than 50 bills relating to taxes at local and state levels were enacted.

A recurring problem of taxing authorities, as well as of the individuals taxed, has been the assessment of property devoted to production of farm crops, livestock, or forest products.

Ad Valorem Taxes

House Bill 22 (January 1, 1978) requires certain land devoted to production of farm crops, livestock, or forest products and land used by a college or university for an ecological laboratory to be valued for property tax purposes by the income capitalization method, using a capitalization rate 2 percent greater than the average variable interest rate charged by the Federal Land Bank of Houston in the preceding year. In the case of farm, ranch, and timber land, the special valuation formula applies only if an individual, a family or a closely held corporation, an estate, or a trust for the benefit of natural persons owns the land.

Property owned by a nonprofit corporation or association for use of its members must be assessed at nominal value for ad valorem tax

purposes if all members have an irrevocable right to use the property and that right is appurtenant to real property owned by the members under provisions of Senate Bill 1078. However, the enhancement of the value of individual properties owned by the members because of the appurtenant right to use the corporation's or association's property must be taken into account in assessing these properties.

House Bill 1203 (June 15, 1977) modifies the types of private leaseholds in publicly-owned property that are exempt from ad valorem taxation and modifies the rules for valuing private leaseholds in public property that are taxable. Standards for determining the value for tax purposes of nonproducing minerals that are removed by surface mining or quarrying are prescribed by Senate Bill 815. House Bill 972 authorizes the property tax on property in a planned unit development that is owned by an association composed of the owners of individual parcels in the development to be assessed proportionately against the individual members if requested by the association. Under authority granted by Senate Bill 714 (June 16, 1977), a property taxpayer may now appeal an adverse determination of the value of his property by a board of equalization to a district court.

Several bills were enacted dealing with the exemption from taxation of certain types of property. Senate Bill 626 exempts property owned by a nonprofit corporation and devoted to preservation of wildlife from property taxation. However, the act stipulates that not more than 1,000 acres in any one county may qualify. Local governments are authorized to exempt from taxation property that is designated as a Recorded Texas Historical Landmark by the Texas Historical Commission and property designated as historically significant by local ordinance under provisions of Senate Bill 595. The bill becomes effective only on the adoption of Senate Joint Resolution 5, which will be considered by the Texas electorate in November, 1977. House Bill 1330 exempts from ad valorem taxation property owned by nonprofit corporations and held for exclusive use in biomedical educational research or in biomedical research for the public benefit.

Procedure for voluntarily restricting one's land to recreational, park, and other open-space uses is prescribed by House Bill 1076 (January 1, 1978), which also provides that land that is restricted for 10 or more years to those uses and is actually devoted to those uses must be assessed for ad valorem tax purposes on the basis of its value for recreational use rather than its market value.

Sale of property for delinquent taxes and suits for delinquent taxes are treated in four bills. Senate Bill 936 establishes procedure for claiming excess proceeds from a judicial sale of property for delinquent taxes while the proceeds are deposited with

the court. House Bill 1830 bars actions to recover property sold for delinquent taxes under judicial foreclosure unless instituted within three years after the date of recordation of the deed executed at the sale or unless the person instituting the suit has paid the taxes on the property since the sale and was not served with notice of the foreclosure suit. Senate Bill 919 obligates a taxing unit to maintain property it purchases at a tax sale for delinquent taxes and authorizes the unit to lease the property. Senate Bill 26 (April 25, 1977) includes additional procedures for sale of real property at a tax foreclosure sale, including a requirement that the notice of the sale state the exact time and location of the sale, an authorization for the sheriff to appoint an agent to conduct the sale, and a requirement that bidders register when the sale begins.

The attorney general has construed an ambiguous portion of the current "freeport" law, which precludes taxation of goods, wares, and merchandise located in this state less than nine months for assembling, storing, processing, manufacturing, or fabricating to apply only if the property is consigned. Senate Bill 1284 makes it clear that the "freeport" law applies whether or not the property is held in this state on consignment and expands the kinds of personal property to which it applies to include "ores."

House Bill 1126 (May 20, 1977) modifies the law governing contracts for assessment, equalization, and collection of taxes for a joint junior college district by some other governmental entity. The principal change is in limiting the amount an entity may charge a joint junior college district for performing the services. Similarly, under prior law a municipality or district could authorize another municipality to assess, equalize, and collect its taxes if both have some territory in common. House Bill 1813 expands the law to permit a municipality or district to authorize another district, as well as another municipality, to perform those tax services when they share territory. The bill also validates previously adopted authorizations for a district to perform tax services.

Two bills dealing with tax increment financing were enacted, House Bill 2028 and Senate Bill 635. Tax increment financing involves the use of the increased ad valorem tax revenue that results from making capital improvements in blighted areas to pay for the improvements. House Bill 2028 authorizes cities to employ tax increment financing for urban renewal projects if approved by local voters. Senate Bill 635 authorizes cities to use tax increment financing for improvements in commercial areas. The senate bill does not require local voter approval, but the bill does not take effect unless the constitutional amendment proposed by Senate Joint Resolution 44, authorizing the legislature to provide for issuance of tax increment bonds, is adopted by Texas voters in the 1978

general election.

Finally, House Bill 126 actually provides for a tax increase. The act increases the maximum tax rate for noxious weed control districts from the current three cents an acre to six cents an acre.

Sales Taxes

The rates of the state sales tax and the motor vehicle sales tax were not changed by the 65th Legislature; however, several laws provide exemptions from the assessment or collection of those taxes. Exempted from the general state sales tax were: mandatory tips charged for food service if reasonable and if the amount of the tip is stated separately from the price of the food, by Senate Bill 59 (April 25, 1977); all property sold at not more than one "tax-free" sale a year conducted by a religious, charitable, or educational organization, by Senate Bill 382 (May 24, 1977); syringes and hypodermic needles sold for medical purposes, by Senate Bill 110; film, recording tape, photographs, transparencies, and other graphic arts materials when sold to or by a licensed radio or television station to be used in the operations of the station, by House Bill 1831; magazines sold by subscription and handled by second class mail, by House Bill 694; leases of motion picture films to movie theaters, by House Bill 1262 (June 10, 1977); all property sold to or used by a nonprofit corporation organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, to promote athletics, or to prevent cruelty to children or animals, by House Bill 2080; and equipment purchased by a volunteer fire department that also provides emergency medical services, by House Bill 407.

Exempted from the motor vehicle sales tax were: ambulances and vehicles used for emergency medical services provided by a volunteer fire department, by House Bill 407; vehicles sold to orthopedically handicapped individuals, by Senate Bill 366; and buses used to carry persons to and from religious services when purchased by a church or religious society, by House Bill 190 (June 10, 1977).

In addition to exemptions from taxation, the 65th Legislature substantially rewrote the motor vehicle sales tax law as it relates to the taxation of motor vehicle rentals. The act, House Bill 1703 (September 1, 1977), retains the 4 percent tax on rental but clarifies and simplifies the law on collection of the tax.

House Bill 1688 creates a presumption that a purchase of liquor or wine by the holder of a wholesaler's permit or a local distributor's permit issued under the Alcoholic Beverage Code is a

purchase for resale and removes the need for a resale certificate for those purchases.

Senate Bill 605 (June 15, 1977) allows a retailer not to pay the sales tax on bad debts and, if the tax has been paid, permits reimbursement.

Other Taxes

To encourage the development of alternative energy sources, House Bill 858 exempts from the state franchise tax a corporation that manufactures, sells, or installs solar energy devices.

House Bill 1860 provides for the forfeiture of the charter by a corporation that fails to pay its franchise tax within 90 days of the due date of the tax and also provides that after forfeiture a corporate officer is not personally liable for debts created while the charter was forfeited if the officer did not know of the forfeiture or if the debt was created over his objection.

The comptroller is prohibited from issuing a warrant to any person who is delinquent in the payment of state taxes under the provisions of House Bill 2067 (June 15, 1977).

House Bill 1484 alters the tax rate on certain cigars that contain no substantial amount of non-tobacco ingredients.

Senate Bill 1294 prohibits any person from publicizing or revealing the content of a federal tax return that is filed with the state by a taxpayer unless the federal return is produced in a court proceeding for the collection of delinquent state taxes. Senate Bill 1303 gives the comptroller the power to negotiate and settle with a person owing state taxes where the best interests of the state will be served by settlement.

Senate Bill 193 exempts from the state inheritance tax the value of certain annuities created from community property or by individual retirement accounts where those annuities are exempted from the federal estate tax.

Appropriations

The highly-publicized surplus in state funds confronting members of the 65th Legislature when they arrived in Austin actually seemed to make the job of allocating the funds more difficult. Each department and agency administrator felt that long-delayed program additions might be forthcoming. New buildings were requested for departments and institutions. Matching funds for federal programs were in demand. Educational institutions were particularly anxious to receive additional appropriations. After many long hearings

before the appropriations committee in the house and the finance committee in the senate, and an almost down-to-the-wire consideration by the joint conference committee of House Bill 510, the general appropriations bill, the sum of \$15,520,120,952 was finally appropriated from all funds for support of state government in the 1978-1979 biennium. The bill becomes effective at the beginning of the state's new fiscal year, September 1, 1977.

As in previous years the largest allocation is to education with a total of \$7,650,967,311 appropriated for the two years, 1978-1979, compared to \$5,901,760,023 for 1976-1977. The executive and administrative departments and agencies category receives the next highest allotment with \$4,013,375,588, a biennial increase of \$1,079,197,660. Public health, hospitals, and youth institutions receive \$3,759,271,293, also an increase over the \$3,197,333,208 provided for the 1976-1977 biennium. The appropriation for the legislative branch is increased by approximately \$2 million for a total biennial allocation of \$52,778,257. The 1976-1977 appropriation was \$50,734,041. Finally, the judiciary receives a total from all funds of \$43,728,503, in comparison with \$35,223,848 for the preceding two years. The creation of 48 new judicial districts is largely responsible for the approximately \$8 million in additional funds provided for the judicial section of state government, funds used in part for payment of the state's portion of salaries for 76 new district judges.

In addition to House Bill 510, the general appropriations bill, 12 bills were enacted providing special appropriations or supplemental appropriations for a number of services and programs. House Bill 612 (June 10, 1977) amends provisions of the Teacher Retirement System to provide increased teacher retirement benefits for those who have already retired, with an appropriation of \$60,851,000 added to the fund to cover the increases. Of the 11 additional special appropriation bills remaining, with a sum total of approximately \$23.4 million for the 1978-1979 biennium, only four have effect during the biennium, the other seven being supplemental appropriations needed to complete requirements for the 1976-1977 biennium. Appropriations for the 1978-1979 biennium are made by House Bill 1575 for miscellaneous claims and judgments against the state--\$1,315,300; House Bill 2266, making a supplemental appropriation to the Agricultural Experiment Station and the Animal Health Commission for control of pullorum disease and fowl typhoid--\$420,000; House Bill 1469 (June 15, 1977), making supplemental appropriations to certain institutions of higher education for flood and fire damage--\$1,427,941; and Senate Bill 1323 (June 15, 1977), making a supplemental appropriation to the office of the attorney general for fire damage--\$67,000.

The seven supplemental appropriations for use during the current 1976-1977 biennium are made by Senate Bill 219 (May 26, 1977) for

the State Rural Medical Education Program, including funds for loans, scholarships, and other benefits--\$130,000; Senate Bill 331 (February 23, 1977), authorizing the Railroad Commission to transfer \$188,974 from oil and gas regulation to gas utility regulation; Senate Bill 336 (May 26, 1977), providing additional funds for 27 institutions of higher education to pay increased utility costs--\$15,799,729; Senate Bill 536 (April 12, 1977), providing additional funds for the Public Utility Commission for increased staff and other costs--\$368,013; Senate Bill 679 (May 28, 1977), providing additional funds for the Texas Department of Corrections for increased cost of utilities and for the program on release of offenders--\$2,265,000; Senate Bill 744 (May 25, 1977), to be used by the attorney general for payment of state employee workers' compensation claims--\$1,700,000; and Senate Bill 1253 (June 15, 1977), to be used by various civil appeals judges for travel expense--\$4,000.

For a complete breakdown of all appropriations from general revenue, see Table I, in the appendix, which has been prepared by the Legislative Budget Board.

THE LEGISLATURE

Eight bills were enacted during the regular session of the 65th Legislature which dealt with the operation of the legislative branch of government. Senate Bill 97 revises the statute governing the trial of impeachment cases in the senate. This statute had not been changed since the 1925 general revision of the statutes. Although the bill replaces with more modern language many of the archaic passages of the statute, three substantive changes should be mentioned: (1) the senate is authorized to recess pending the occurrence of an event (such as the completion of other legal proceedings affecting the person impeached); (2) the senate is expressly authorized to meet in closed session for deliberation; and (3) the payment of per diem to members of the senate and the lieutenant governor is prohibited if the senate recesses or adjourns for more than four consecutive days.

House Bill 580 provides for legislative review of proposed state agency rules. It amends the Administrative Procedure and Texas Register Act to require agencies to file proposed rules with each house of the legislature. The presiding officer of each house will refer the proposed rule to the substantive committee of that house having jurisdiction of the subject matter, which will then make a statement supporting or opposing the adoption of the rule. The statement is not legally binding and is merely a recommendation. House Bill 580 also requires a state agency proposing to adopt a rule to publish an estimate of the fiscal effect of the proposal similar to the system of fiscal notes

required on proposed legislation.

House Bill 450 (February 23, 1977) authorizes agencies of the legislative branch to provide services to one another with or without a written contract or provision for reimbursement.

The system of providing fiscal notes disclosing the fiscal effect of proposed legislation is supplemented by House Bill 105 (May 26, 1977), which provides a method of estimating the effect of proposed legislation on the state economy. This bill authorizes the speaker of the house of representatives or the lieutenant governor to request a state agency to prepare an economic impact statement for any pending legislation directly affecting that agency.

State law governing the publication of notice of the intention to apply for a local law was amended by House Bill 589. Prior law required that notice be published in the affected locality at least once a week during the 30-day period before the bill is introduced. House Bill 589 changes the requirement to conform to Article III, Section 57, of the Texas Constitution, which requires only a single publication at least 30 days before introduction.

House Bill 828 requires the chief justice of the supreme court to make a "state of the judiciary" message at the beginning of each regular session.

With the passage of House Bill 2194, either house of the legislature is authorized to provide in its rules for the disposition of its surplus property. Formerly, the disposition of surplus property by the legislature was governed by law applicable to the disposition of state property in general.

Finally, Senate Bill 200 clarifies the law regarding immunity for persons required to testify before legislative committees. Former law appeared to require a legislative committee to force a person to testify if he refused to answer on the grounds of his right against self-incrimination, thereby automatically granting him immunity from prosecution with regard to any transaction about which he testified. Senate Bill 200 clearly gives a committee discretion as to whether or not to force a witness to testify when he claims the right against self-incrimination.

STATE OFFICIALS, STATE DEPARTMENTS AND AGENCIES,
STATE EMPLOYEES, AND EXAMINING AND LICENSING
AGENCIES

State Officials and Employees

Public employees and public officials were affected, either

directly or indirectly, by several pieces of legislation. The bills passed in this area range from a measure amending the Texas Employees Uniform Group Insurance Benefits Act to a bill providing for the appearance of the attorney general as the attorney for public employees. Senate Bill 37 makes the state liable for and requires the state to pay damages, court costs, and attorney's fees adjudged against a present or former officer or employee of a state agency, institution, or department based on an act of the officer or employee within the scope of his employment. The liability of the state covers only instances where the officer or employee acts negligently or deprives another person of a statutory or constitutional right, privilege, or immunity. The bill puts a monetary limit on the state's liability and requires the attorney general to defend the officer or employee if the officer or employee follows the established procedure for notifying the attorney general.

Senate Bill 1183 (September 1, 1977) provides for amendments to the Texas Employees Uniform Group Insurance Benefits Act relating to participation in and operation of the insurance program.

Senate Bill 1310 (May 30, 1977) provides that the amounts for travel reimbursement and for the state's participation in group insurance premiums for state officers and employees shall be as provided in the General Appropriations Act.

The attorney general is made responsible for defending a state grand jury commissioner or state grand juror against suits in federal courts involving acts performed by the commissioner or juror as part of his official duties under terms of House Bill 812.

State employees profit from the enactment of Senate Bill 20, which establishes a program under which the state pays state employees' social security contributions under the Federal Insurance Contributions Act. The program becomes effective on September 1, 1978, the beginning of the second year of the biennium. In other legislation designed to benefit state employees, Senate Bill 917 (September 1, 1977) permits deferred compensation programs for public employees to be funded by the purchase of investment contracts. The act also provides that purchases of contracts to fund the deferred compensation program may be made from certain banks and savings and loan associations.

Senate Bill 1148 amends the Travel Regulations Act of 1959 to provide for the payment of travel expenses incurred by prospective state employees when they are requested to visit a state agency for an interview relating to employment.

The governor is allowed by Senate Bill 1229 to give blanket authorization to the international trade development division

personnel of the Texas Industrial Commission to engage in international travel.

Houseparents who are employed by and who live at the facilities of the Texas Youth Council are exempted from the state employees workweek law by House Bill 748 (May 13, 1977).

House Bill 890 limits the restoration of state employment to former employees of the state or of a political subdivision who entered military service to cases in which the former employees are discharged from military service within five years after the beginning of the service. The statutory prohibition on carrying weapons by capitol complex security officers without approval by the director of the Department of Public Safety is repealed by Senate Bill 701.

House Bill 620 designates January 6 of each year as "Sam Rayburn Day" in honor of this former speaker of the Texas House of Representatives and longtime speaker of the House of Representatives of the United States Congress. However, the day is not set aside as a legal holiday.

Departments and Agencies

The 65th Legislature enacted numerous bills regulating, reorganizing, or otherwise affecting executive agencies. Among the most significant in this area were the Texas Sunset Act, Senate Bill 54, providing for periodic review and termination of certain state agencies, and the Texas Administrative Code Act, House Bill 1969, providing for a compilation of state agencies' rules.

Under provisions of the Texas Sunset Act, a commission composed of members of each house of the legislature is delegated to review the operations and functions of each state agency every 12 years and, on the basis of its findings, to recommend to the legislature the continuation or abolition of each agency. Unless an agency is continued by the legislature after this procedure is completed, it is automatically abolished. The Texas Administrative Code Act provides for a compilation of rules promulgated by state agencies to become the Texas Administrative Code. The secretary of state is given the responsibility of administering the act.

Another bill designed to foster efficiency in state government, Senate Bill 332, requires the governor to group state agencies according to their functions and to present to the legislature, biennially, a report on the organization and efficiency of state agencies.

With inauguration of the metric system fast approaching in this country, the legislature recognized that problems would arise in

governmental agencies and educational institutions, and that businesses and consumers as well would welcome assistance in the transition to the new system. As a result, House Bill 300 creates the Metric System Advisory Council to study the problems involved, looking toward facilitating the change to the metric system with the least possible difficulty. The bill provides that the council will go out of existence on August 31, 1983.

Three bills applicable to the operation of state agencies include House Bill 314 (April 18, 1977), which requires state agencies to comply with rules promulgated by the state auditor prescribing the style and format of all periodic reports that the agencies are required to make; Senate Bill 638 (June 15, 1977), permitting state agencies to purchase property damage insurance when necessary to qualify for federal disaster assistance funds; and Senate Bill 612 (June 10, 1977), creating a central clearinghouse for computer software developed or acquired by state agencies.

The Texas Water Rights Commission, the Texas Water Quality Board, and the Texas Water Development Board were fused into one new agency, the Texas Department of Water Resources, with the enactment of Senate Bill 1139. The new department is to be activated on September 1, 1977. In other legislation abolishing a state department, a proposed constitutional amendment, Senate Joint Resolution 48, and Senate Bill 759 provide for the transfer of statutory powers and duties of the State Building Commission to the State Board of Control. The act abolishes the building commission and transfers its constitutional powers and duties to the board of control if or when Senate Joint Resolution 48 is adopted. The proposed constitutional amendment is scheduled for the election in November, 1978.

Responsibilities and operations of the State Board of Control are treated in three additional bills. House Bill 625 (June 15, 1977) revises the law under which the board leases space for state agencies. The act establishes procedures under which a state agency requests space from the board and under which the board leases space for use by a state agency. Senate Bill 47 permits the board to waive the requirements of the State Purchasing Act of 1957 when payment for a rental or lease-purchase of supplies, materials, or equipment is made from the expense fund of a house of the legislature. The act also permits a legislator to purchase, under certain circumstances, the chair he uses on the floor of the legislature. Senate Bill 513 transfers the responsibility for the accounting and inventory of state property from the comptroller of public accounts to the State Board of Control.

The Texas State Library and Historical Commission is authorized to reorganize a major resource system under provisions of Senate Bill 383. A resource system is a network of libraries joined

cooperatively, and the bill permits the organization of such a system with the approval of a majority of the governing bodies of the libraries involved. The measure also changes the initial meeting time at which the members of the major resource system advisory council are selected. The hitherto prohibited uses of state grants under the Library Systems Act have also been changed by the new legislation.

A series of bills was enacted to amend the Administrative Procedure and Texas Register Act: House Bill 580 adds to the list of information that a state agency must file with the secretary of state before the agency adopts a rule, a note stating the fiscal implications of the rule. Also, the act establishes a system under which standing committees of each house of the legislature review proposed agency rules. House Bill 148 expands the "discovery" power of state agencies during administrative proceedings. The act authorizes agencies to order a party to an administrative hearing to produce certain documents and other items and to permit entrance on the party's land for inspection. House Bill 149 permits a party to an administrative hearing to file an exception or a brief to a proposed administrative decision. The act also permits the proposed administrative decision to be amended in accordance with the exception or brief. Senate Bill 912 clarifies the extent to which ex parte consultations are permitted in contested cases under the Administrative Procedure and Texas Register Act to exempt internal personnel rules of an agency from the act and to exempt the Texas Board of Pardons and Paroles from certain hearing requirements of the act.

Membership of the Commission on Uniform State Laws has been increased from five to six under provisions of Senate Bill 406 (May 20, 1977), which also provides staggered terms of six years for members.

Duties and authority of the Texas Aeronautics Commission are treated in House Bill 202 (May 13, 1977) and House Bill 633 (May 20, 1977). House Bill 202 removes the requirement that the chairman of the Texas Aeronautics Commission, or his designee, must countersign with the director of the commission all checks for expenditure of certain commission funds. Under the act the director's signature is sufficient. The bill further provides that the director may execute contracts on behalf of the commission and no longer must he act jointly with the chairman of the commission. House Bill 633 permits the Texas Aeronautics Commission to exempt a class of air carriers from regulation if the exemption is in the public interest.

Also in this area of legislation is Senate Bill 592, which gives the Civil Air Patrol power to advise the governor's division of disaster emergency services about rescue or disaster operations and

to assist private aviators.

Senate Bill 168 (June 15, 1977) requires one of the members of the Texas Indian Commission to be an Indian, specifies the number and places of meetings that must be held by the commission each year, and provides for assistance to Traditional Kickapoo Indians and Intertribal Indian organizations.

The terms of members of the Battleship Texas Commission are established by Senate Bill 393 (May 30, 1977). The amount of money which the commission can retain when it has no outstanding bonds is limited but the limit on the amount of compensation that a commission employee is entitled to receive is removed.

House Bill 128 gives statewide jurisdiction to notaries public and also requires that notaries public post a bond of \$2,500 when they are appointed or reappointed after the effective date of the act. Also applicable to notaries public, Senate Bill 1161 increases to \$4 the fee collected by the secretary of state for issuing a notary public commission.

The use of private consultants by state agencies and regional councils of government is regulated by Senate Bill 737.

Senate Bill 545 conveys 3.69 miles of the Texas State Railroad to the city of Palestine and abolishes the Board of Managers of the Texas State Railroad.

Finally, with respect to state agencies, House Bill 628 (April 25, 1977) establishes a system under which the Texas Employment Commission gathers and dispenses notices of state job openings in Travis County. The act is designed to facilitate employment for those seeking jobs.

Prior to the 65th legislative session, the state comptroller could, in the event that a state warrant was lost or destroyed, issue a duplicate warrant after the applicant for the duplicate had posted bond. No provisions existed for the issuance of a duplicate warrant when the original had been stolen or the endorsement forged. Senate Bill 102 broadens the existing law to authorize the comptroller's issuance of a duplicate warrant under the circumstances of theft or forgery of the original.

A number of changes are made in the Texas Mobile Homes Standards Act by Senate Bill 305 (May 13, 1977) to bring the state into conformity with federal regulations and to increase the protection of consumers. The bill simplifies the act in several ways, redefines many of its terms, deletes concepts preempted by federal law, and brings the Texas Department of Labor and Standards into conformity with federal regulations by creating a new fee schedule.

The protection of consumers is increased through inclusion of lease-purchase agreements in the provisions of the bill and through regulation of brokers. The bill also alleviates some of the problems which the mobile home industry has had with bonding requirements by allowing the depositing of other security in lieu of posting a bond and limiting the stacking liability of the bond.

Examining and Licensing Agencies

Occupational regulation was the subject of considerable legislation. A survey of this area reveals that bills of both major and minor importance were enacted and that a long list of occupations has been affected.

The Texas State Board of Dental Examiners is permitted to employ and compensate necessary personnel under provisions of Senate Bill 779, which also creates a Dental Hygiene Advisory Committee to advise the board on matters relating to dental hygiene. Six more bills were enacted relating to the practice of dentistry and requirements of dental hygienists: Senate Bill 893 expands definitions of conduct considered to be the practice of dentistry. Senate Bill 563 adds dangerous drugs and controlled substances to the list of substances that dentists may not use unless necessary, changes the age and educational requirements for dental hygienists, allows two dental hygienists to work for one dentist, and removes the limitation on the number of dental hygienists who may be employed in a dental office. The bill also repeals Articles 4546 and 4546a of Vernon's Texas Civil Statutes, which involve the recording of dental licenses in county clerks' offices. Senate Bill 804 (May 28, 1977) permits a dental license to be revoked or suspended if the licensee is physically or mentally incapable of practicing dentistry or if the licensee has been negligent in the performance of dental services that injure a patient. Various fees for dentists and dental hygienists are set by Senate Bill 657, which also removes the requirement that dentists record their licenses in certain counties. The act changes from mandatory to permissive the power of the Texas Board of Dental Examiners to reinstate the license of a dentist who fails to register annually as required by law, raises the per diem for members of the dental board, and requires the board to issue rules for licensing graduates of foreign or nonaccredited dental schools.

Civil immunity is granted by Senate Bill 565 to members of certain dental peer review, judicial, or grievance committees and to officers, employees, or witnesses of the Texas State Board of Dental Examiners. The immunity covers conduct of the persons that is performed as part of their official duties. The State Board of Dental Examiners is required by Senate Bill 656 to keep records about dental hygienists and other professions regulated by the board and to make these records public information with certain

exceptions. The act also states that dentists may incorporate under the Texas Professional Corporation Act in accordance with the board's rules.

Per diem compensation of members of the State Board of Pharmacy has been increased by House Bill 1878 and the maximum fee that may be charged for a reciprocal license to practice pharmacy in Texas is also set by the act.

House Bill 1304 (May 13, 1977) increases the membership on the Board of Law Examiners from five lawyers to nine lawyers and increases the fee charged for taking the bar exam from \$40 to \$75, to be used for additional employees to help the board meet its increased workload. The number of bar applicants has increased greatly and it has become more difficult to find qualified persons who are willing to serve as bar examiners.

Unless a contract or private agreement provides for the recovery of attorney's fees, the prevailing party in a lawsuit may recover attorney's fees, in addition to his claim and costs, only if statutory law provides for their recovery. House Bill 318 directs the court to award reasonable attorney's fees to certain prevailing parties in suits based on breach of a restrictive covenant pertaining to real property and establishes standards for the determination of reasonable attorney's fees. Senate Bill 208 authorizes the award of reasonable attorney's fees to the prevailing party who recovers possession of land from a party unlawfully in actual possession in an action where one party claims under the record title and the other party claims by adverse possession, if the party out of possession gave written notice and demand to vacate at least 10 days prior to filing suit.

Senate Bill 641 allows certain teaching experience to satisfy the experience requirement for membership on the State Board of Registration for Professional Engineers.

Morticians and certain other persons in the funeral business may be fined for unlawful practices under terms of House Bill 899.

Several bills relating to the practice of chiropractic were enacted. Senate Bill 785 grants civil immunity from liability to members, employees, witnesses, and consultants of the Texas Board of Chiropractic Examiners for acts performed as part of their official duties. The Texas Board of Chiropractic Examiners is required by Senate Bill 446 (April 25, 1977) to issue a license to an applicant who has been adequately examined by a particular national chiropractic organization. The board is prohibited from establishing examination requirements in addition to those set out in the chiropractor licensing statute.

The maximum allowable renewal fee for an optometrist license is increased to \$75 by Senate Bill 258. Members of the Board of Podiatry Examiners are permitted by House Bill 230 (April 18, 1977) to receive \$50 per diem while engaged in the performance of official duties. Previously members were paid \$25 per diem. Changes in the fees, renewal procedure, display requirements, and recording requirements for podiatry licenses are included in the provisions of Senate Bill 851. House Bill 2190 changes from two calendar years to two academic years the minimum time required to complete a course of study in programs which prepare professional nurse practitioners.

House Bill 2172 gives a per diem to members of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and raises the renewal fee for a license to fit and dispense hearing aids.

Numerous changes have been made in the Registered Public Surveyors Act by Senate Bill 144 (March 30, 1977). The act clarifies the definition of "public surveying," limits certain exemptions under the Public Surveyors Act, adds or changes various fees required, permits a staggered renewal system of licensing, makes changes in disciplinary proceedings, provides for publication of a roster of public surveyors every two years, and establishes a procedure for issuing reciprocal certificates. Another measure, House Bill 901, repeals the statute covering the licensing of state land surveyors and establishes a new comprehensive procedure for their licensing. The act creates the Board of Examiners of Licensed State Land Surveyors to administer the licensing procedure.

Procedure for the registration and certification of persons engaged in the assessment of property for ad valorem taxation is established by Senate Bill 67. The Board of Assessor Examiners is created to administer the procedures.

Senate Bill 428 amends the Private Investigators and Private Security Agencies Act to change license requirements, amounts of fees, exemptions, and prohibitions. The act also amends the Penal Code to change exemptions from the unlawful-carrying-of-weapons provision.

Three bills relating to the cosmetology profession were enacted: Senate Bill 532 allows licensed cosmetologists to participate in certain educational activities without holding a temporary license and removes the requirement that applicants for cosmetologist licenses take a Wasserman test. The act provides for temporary permits for cosmetology demonstrations outside of licensed shops. Senate Bill 398 allows the Texas Cosmetology Commission to promulgate requirements for instructor-student ratios in private beauty culture schools where the student enrollment drops below 15. The act also changes the length of school terms in private beauty

culture schools for manicure and wig specialist courses. Finally, House Bill 1836 extends to December 31, 1984, the authority of the Texas Cosmetology Commission to certify persons for the limited purpose of hair cleansing and scalp conditioning in beauty shops.

The Plumbing License Law of 1947 is amended by Senate Bill 147 to permit a person to install, exchange, service, or repair water treatment facilities without a plumber's license. The act requires the director of health resources to develop standards that protect the public from unqualified persons engaging in activities relating to water treatment.

The statute regulating auctioneers is amended by Senate Bill 1168 (May 30, 1977) to limit the coverage of the statute to individuals who are auctioneers, to exempt certain transactions from coverage by the statute, to establish new license requirements and procedures, and to prohibit political subdivisions from regulating auctioneers.

Senate Bill 535 (June 10, 1977) amends the Texas Motor Vehicle Commission Code by extending the definition of "franchise," restricting changes in location of automobile dealerships, and expanding manufacturers' warranty obligations.

A situation causing much controversy, especially in Austin, has led to legislation regulating the removal of vehicles from parking facilities or public highways by parking facility owners or by towing companies. House Bill 1739 has been designed to regulate this type of activity. Certain conduct of automobile salvage dealers is now subject to regulation under provisions of Senate Bill 501 (June 15, 1977), which also establishes certain recordkeeping requirements for the salvage dealers.

Retirement Systems

The 65th Legislature passed three bills having significant effects on the Employees Retirement System of Texas. Senate Bill 859 (September 1, 1977) changes the rate of state contributions to the system from 7-1/2 percent to 8 percent of aggregate employee compensation. The bill revises the method of determining a state employee's average compensation on which retirement benefits are based, providing that the average for retirements and deaths after September 1, 1976, is determined from the 36 months of highest compensation within the last 60 months of employment instead of 60 highest months within the last 120 months of employment, as under previous law. The bill also permits the surviving spouse and minor children of a member who dies after becoming eligible for service retirement but before achieving 20 years of creditable service to choose a retirement payment plan.

Senate Bill 756 (September 1, 1977) establishes two classes of membership in the system--elective state officers and appointive officers and employees--as of January 1, 1978, and makes several provisions for establishing and crediting accounts in one or both classes. The bill provides that military credit established after December 31, 1977, may not be included in computing service retirement or nonoccupational disability retirement benefits unless the member is eligible for service retirement benefits at age 60 without regard to his military service. The bill additionally allows credit to be established for certain service as a National Guard technician and for a whole year in which an elective state official served or was eligible to take the oath of office.

Senate Bill 754 provides increased annuity payments for members who retired or died before August 31, 1976, and creates a new system fund account. The eligibility requirement for retirement under the judicial retirement system based on years of noncontinuous service is changed from 24 years to 20 years of service by Senate Bill 12 (May 20, 1977). Senate Bill 343 extends the existing 10 percent additional retirement benefit available to judges who retire at or before the age of 70 to persons who retired at or before age 70 and are serving on the effective date of the bill as the presiding judge of an administrative judicial district. Senate Bill 949 defines the pay received by a person who is retired under the judicial retirement system and who is assigned to a court or serving as a commissioner to the court of criminal appeals as a retirement allowance paid in lieu of other retirement benefits under the judicial retirement system. The designation of the salary as a retirement allowance is designed to afford it the same protection from execution and other processes as other retirement benefits receive.

In response to a 1976 Texas Attorney General opinion stating that teachers in Texas Youth Council facilities are not "teachers" in the context of all other laws, the 65th Legislature passed Senate Bill 1212 (May 20, 1977) clarifying their retirement system membership by specifically including them within the membership of the teacher retirement system.

Senate Bill 1045 (June 15, 1977) provides a lump-sum death benefit which, when added to any existing teacher retirement system death benefit, equals \$5,000 for each person retired under the system who, immediately prior to retirement, was an appointed officer or employee of the Central Education Agency, teacher retirement system, or a Texas school for the blind or deaf. Senate Bill 559 amends the Texas Education Code to change the maximum number of days from 100 to 120 in any school year that a person retired under the teacher retirement system may be employed as a substitute employee in a public school and retain teacher retirement benefits.

Major changes in the operation and benefits of the Teacher Retirement System of Texas were made in House Bill 612 (June 10, 1977). Among other things, the bill eliminates the distinction made under previous system law between teachers and auxiliary employees, raises the standard annuity computation to 2 percent for each year of service times the member's best-five-years average compensation, and establishes a new system fund account. Member contributions are raised in the bill from 6 percent to 6.65 percent of compensation, and state contributions are raised from 6 percent to 7.5 percent of aggregate compensation. The bill makes changes in optional retirement plans, permits retirement at any age with 30 years of service, imposes a \$25,000 ceiling on death benefits payable before retirement, and makes numerous less significant changes in system law.

The 65th Legislature passed a measure, House Bill 617 (January 1, 1978), that has significant potential implications for public employment in Texas. The bill creates a proportionate retirement program to replace a more limited program established in Article 6228i, Vernon's Texas Civil Statutes, which the bill repeals. Under the new program, subdivisions participating in the Texas Municipal Retirement System or the Texas County and District Retirement System as of December 31, 1977, can elect to join the teachers, judicial, and state employees retirement systems in providing retirement benefits to members with service covered by more than one system whose combined service in all systems equals the minimum eligibility requirements for payment of benefits from the particular systems. This program allows public employees who change jobs from one unit of government to another to retain their retirement credits and ultimately receive retirement benefits from each of the systems in which they have accrued service. Payments from each system are based only on credits retained in the particular system and computed according to the payment schedules existing in that system.

Several amendments to the law governing the Texas Municipal Retirement System were incorporated into Senate Bill 543 (April 13, 1977). The most significant change in the system is the establishment of an optional death benefits program, which becomes operative if enough cities choose to participate in the plan to provide a pool of at least 4,000 member employees. The principal benefit under the program is the payment as a death benefit of an amount equal to the annual salary of a deceased member during the 12 months preceding his death. The bill also increases the rate of regular interest creditable to member's deposits from three percent to four percent, establishes two additional retirement options available in lieu of the standard service retirement benefit, and makes other small changes in operation of the system.

Two bills, Senate Bill 792 (January 1, 1978) and Senate Bill 793

(June 16, 1977), were enacted making numerous changes in the law governing the Texas County and District Retirement System. Senate Bill 792 provides a new optional retirement plan whereby a member may choose to have the balance of 120 annuity payments made to his beneficiary if the member dies before 120 payments have been made to him. The bill redefines much of the terminology used in the law governing the system, makes many small changes in operation of system benefits and accounts, and reduces the number of separate system fund accounts from eight to six. Senate Bill 793 changes the rate of regular interest creditable to member's deposits from 3 to 4 percent, provides for renewal of membership in the system for employees who are under the age of 60 or over age 60 under certain circumstances, and who return to employment with a participating subdivision, and provides for increases in payments based on prior and current service annuities according to specific formulas. The bill also exempts system deposits and benefit payments from state, county, and municipal taxes.

In response to growing national public concern about the financial condition of local public retirement systems, which heretofore have not been regulated by statute in Texas, the legislature passed House Bill 940. The bill requires each locally operated and funded public retirement system to have an actuarial study made of the assets and liabilities of the system by a competent actuary every three years, to have the accounts of the system audited annually by a certified public accountant, and to publish an annual report showing the financial condition of the system during the preceding 12-month period.

PUBLIC LANDS AND RESOURCES

Land Trades

Under present law when the School Land Board trades school land for privately-owned land, it must retain for the state title to oil and gas under the traded land "whenever practical" or when either oil or gas is produced within 50 miles of the traded land. Senate Bill 698 authorizes the state to retain additionally all other minerals under traded school land. The act also grants the state or its lessee the right of ingress and egress for development and production of oil, gas, and other minerals, and it makes the state or its lessee liable for surface damages resulting from the development and production.

Historical Resources

A person who intends to alter or whose actions may damage the historical or architectural integrity of a structure designated as a Texas Historical Landmark is required by law to give at least 60

days' notice to the Texas Historical Commission before taking such action. After the 60-day period, the commission may extend the period another 30 days. House Bill 2197 amends this notice provision to require the person giving notice to take the planned action within 180 days after the 60- plus 30-day time period or the effect of the notice expires. The bill also provides that the commission has no authority to review placement or location of any object on a historical landmark if there will be no substantial structural damage or alteration.

The preservation and protection of Texas' many pristine caves is the intent of House Bill 1181 (May 20, 1977). Designated the Texas Caverns Protection Act, it provides penalties for defacing, damaging, and polluting caves in the state and requires permits for excavation of a cave or for any activity that will destroy, injure, or significantly alter a cave.

Coastal Land

Texas has along its Gulf Coast numerous marshes and other areas of high biological productivity where seawater is present most of the time. To assure the preservation of these wetlands in their natural state, the legislature in Senate Bill 578 authorizes the Parks and Wildlife Department to acquire coastal wetlands by gift, grant, devise, purchase, and condemnation. The General Land Office is charged by the act with certifying and attaching priorities for the purchase of coastal wetlands.

The law relating to parks bordering on the Gulf of Mexico is amended by Senate Bill 981 to enhance the powers of the beach park boards of trustees in regard to the acquisition, financing, and improvement of recreational facilities. The Coastal Coordination Act of 1977, Senate Bill 577, directs the Natural Resources Council to study and report periodically on problems and issues affecting the coastal natural resource areas of the state.

During the interim of the 64th Legislature, an advisory committee on the proposed coastal zone management program recommended that the state study and devise a method to improve its natural resource decision-making process and to refine its permit procedures relating to coastal management without creating a superagency. An activity-assessment routine is one method by which an agency may improve decision-making and administrative procedures. House Concurrent Resolution 62 directs the governor to have a pilot study of the activity-assessment routine conducted as a part of the state's coastal management program.

State Land

The 65th Legislature authorized the sale, conveyance, or exchange of specific tracts of state-owned land by Texas Tech University--House Bill 1713; the Texas Board of Corrections--House Bill 1808; the Texas Employment Commission--Senate Bill 324 (March 3, 1977) and Senate Bill 1268 (June 15, 1977); Midwestern State University--Senate Bill 1201 (June 15, 1977); and West Texas State University--Senate Bill 1319. The State Board of Control is authorized by Senate Bill 743 (May 28, 1977) to lease a 3.87 acre tract of land at Barton Creek to the city of Austin. Senate Bill 545 conveys 3.69 miles of the Texas State Railroad to the city of Palestine and abolishes the Board of Managers of the Texas State Railroad. Senate Bill 810 designates certain land in San Augustine County as the official site of the Mission of Nuestra Senora de los Dolores de los Ais for archeological purposes and declares it suitable for a state park. Senate Bill 1246 transfers the custody, care, and control of part of the 4.162-acre tract of state-owned land in the city of San Antonio, known as the Alamo Park Complex, to the Daughters of the Republic of Texas.

WATER

As in previous sessions, water conservation and development have been major areas of legislative activity. The 65th Legislature adopted important reforms in the regulation and operation of water districts and made significant changes in the state-level administration of water-related matters.

Water Administration

Following the preliminary recommendations of the Joint Advisory Committee on Government Operations, the legislature, in one of the most important actions of the session, enacted Senate Bill 1139 (September 1, 1977), which consolidates the state's three major water agencies (Texas Water Rights Commission, Texas Water Development Board, and Texas Water Quality Board) into the Texas Department of Water Resources. Under this new arrangement, the powers of the single state water agency are divided into legislative, executive, and judicial functions. The Texas Water Development Board will exercise the legislative functions, the executive director of the new agency will exercise executive functions, and a new Texas Water Commission will exercise judicial-type functions.

The Texas Water Rights Commission's authority over ratemaking in the case of sales of water by incorporated cities, towns, and villages to political subdivisions is clarified by House Bill 1602 (June 15, 1977). Authority is specifically granted to set interim

rates, order refunds, and assess additional rates.

The sole authority for issuance of permits for weather modification in this state is the Texas Water Development Board. Because of concern that weather modification for purposes of hail suppression is potentially damaging, the legislature enacted Senate Bill 632 (June 10, 1977) to give voters in a proposed permit area the opportunity to determine whether or not the permit should be issued. This act places ultimate control over weather modification in the hands of those directly affected by such operations.

Matagorda County is authorized by House Bill 1505 to establish and operate a water supply and sewage system that will serve parts of the county outside the limits of an incorporated city or town.

Water Rights

The state is required by law to collect certain fees on issuance of water rights permits. Failure to make these collections results in the annulment of the permit. The state has failed to collect fees on a number of permits in recent years, and as a result, several major water projects in which the state and federal governments have invested a large amount of public money have been placed in jeopardy. To remedy this situation, Senate Bill 1082 (May 30, 1977) allows on payment of application fees the reinstatement of annulled permits after rehearing and validates previously issued permits to the extent the validity and priority of the permits are affected by failure to pay the prescribed fees.

Although the Water Code provides for issuance of both temporary and emergency water permits, a problem existed in quickly obtaining authorization for use of very small quantities of water for projects extending over a short period. House Bill 1245 (May 13, 1977) authorizes the issuance of temporary permits for use of 10 acre-feet or less of water on application without having to comply with notice and hearing requirements provided the permit does not exceed one year in duration. House Bill 1157 amends the Water Code to provide that water may be appropriated for any beneficial use not specifically listed in the code.

Water Development

Under the state constitution, the Texas Water Development Board is authorized to issue bonds for the purpose of financing water development projects and water quality enhancement. Since the beginning of the program, the board has been lending the bond proceeds at the weighted average effective interest rate issued from the beginning of the program to the date of the loan. This has resulted in an unfavorable rate situation for the state. To correct this, the legislature enacted House Bill 1292 (May 26,

1977), which provides that interest charged for water development loans and water quality enhancement loans and that interest computed on the sale price of board ownership in a reservoir reflect the board's cost of money plus .5 percent.

Senate Bill 373 (June 10, 1977) was adopted to clean up several sections of the Water Code relating to the amount of Texas water development bonds. The amount of bonds for water quality enhancement bonds is increased by the act from \$100 million to \$200 million to conform to a recent constitutional amendment. The act also removes one of two duplicative sections from the code.

Water, Utility, and Other Special Districts

The administration, regulation, and creation of the various types of special districts involved in water resources are the subjects of a large number of bills adopted by the legislature.

In 1973, the legislature adopted a comprehensive statute relating to the audit of the fiscal affairs of all water districts in the state. Since the adoption, the Texas Water Rights Commission determined that certain amendments were needed in the law for more efficient and effective administration. House Bill 987 incorporated the suggested modifications into the audit statute.

Under Chapter 50 of the Water Code, the Texas Water Rights Commission is authorized to dissolve inactive water districts that have no outstanding indebtedness, but this statute did not provide for disposition of assets that the district may have accumulated at the time of dissolution. House Bill 1150 provides that these assets in the future will go to the state under the state's escheat laws.

Fire insurance rates for persons residing in water districts are in many cases higher than for persons residing in other political entities. This is because the districts did not have the authority to provide adequate fire-fighting facilities. Under House Joint Resolution 42 and House Bill 578 (effective upon adoption of H.J.R. 42 by the voters), districts will be able to maintain their own fire departments or contract for such services. This capability should have the effect of reducing fire insurance rates for district residents.

Present law authorizes certain political entities to obtain written opinions from the attorney general regarding legal problems encountered by the entity. River authorities were not included within this authorization although they had encountered a need in the past for such assistance. Senate Bill 1195 amends the law relating to attorney general opinions to include river authorities as one of the governmental entities authorized to obtain such

opinions.

Under the statute creating the Harris-Galveston Coastal Subsidence District, the permit fee for wells used for the irrigation of agricultural crops and the limitations placed on certain cities in withdrawal of groundwater had caused considerable hardship. House Bill 390 (June 15, 1977) amends the subsidence district law to provide a special formula for permit fees for agricultural wells and places limitations on the district in requiring small cities to cut back on groundwater withdrawals.

Although Chapter 51 of the Water Code may be used to create both irrigation and municipal-type water districts, there has been no general law tailored to meet specifically modern irrigation needs in the state. House Bill 1408 adds Chapter 58 to the Water Code to provide specifically for the creation of and conversion to districts that are strictly limited to performing functions related to irrigation.

State law required that a person bidding on a construction project for a water control and improvement district accompany the bid with a certified check. This requirement proved to be a hardship, and House Bill 567 was enacted to allow the use of either a cashier's check or bid bond of at least 2 percent of the bid as security for the construction bid. Also, no provision existed in state law for the exclusion of land from water control and improvement districts after the district was created and district bonds were sold. Senate Bill 974 authorizes the exclusion of certain land from such districts if the land was added to the district after the district was created and its bonds were sold. House Bill 2210 permits water control and improvement districts to include in a consolidation agreement that the new district will have a governing board elected from precincts.

Three bills adopted by the legislature relate specifically to navigation districts. Various chapters of the Water Code and other statutes were amended by Senate Bill 950 to modify the bidding procedures of the different types of navigation districts authorized to operate in the state. Commissioners of self-liquidating navigation districts had been authorized to receive a fee of not more than \$20 a day for each day of service. House Bill 570 (April 25, 1977) increases the amount to \$50 a day for each day of service. Self-liquidating navigation districts had not been authorized to annex territory to the district. Senate Bill 1079 sets forth detailed procedures by which such districts may annex territory. The act also exempts self-liquidating navigation districts from the required election date provisions of the Election Code and changes the filing deadline for commissioner candidates.

The authority of levee improvement districts is expanded by Senate Bill 957. Among the act's provisions are those which authorize such districts to purchase and acquire works and improvements, to issue construction bonds as required for public works by general law, and to appoint their own tax assessors-collectors as well as boards of equalization. The act also modernizes statutory provisions relating to the issuance of bonds by levee improvement districts.

The 65th Legislature enacted a number of bills creating new special law water districts: House Bill 1747, creating the Llano Estacado Water District; House Bill 2132 (June 15, 1977), creating the Northwest Forest Municipal Utility District; House Bill 2136, creating the West Jefferson County Municipal Utility District; House Bill 2151, creating the Port O'Connor Municipal Utility District; House Bill 2165 (June 15, 1977), creating the East Cedar Creek Fresh water Supply District; House Bill 2180 (May 26, 1977), creating the Upton County Water District; House Bill 2212 (June 15, 1977), creating the Aquilla Water Supply District; House Bill 2213, creating the Meeker Municipal Water District; Senate Bill 1214, creating the Fort Bend County Municipal Utility District No. 13; and Senate Bill 1296, creating the Northeast Tarrant County Water District.

Existing special law districts are the subject of a number of bills enacted this session: House Bill 685 (April 29, 1977), relating to the administration and powers of the San Patricio Municipal Water District; House Bill 1180 (June 15, 1977), relating to the election of directors of the Jefferson County Drainage District No. 7; House Bill 1213 (May 4, 1977), relating to annexation by the Irving Flood Control District; House Bill 1461 (May 4, 1977), relating to the merger of the Grandfalls Drainage District and the Ward County Water Improvement District No. 2; House Bill 2133, relating to directors' compensation in the Orange County Drainage District; House Bill 2138 (May 20, 1977), relating to bonds of the Hidalgo County Drainage District as security; House Bill 2146, relating to boundaries of the Anna-Van Alstyne Water District; House Bill 2148 (May 26, 1977), relating to the terms for directors of the Panola County Fresh water Supply District No. 1; House Bill 2171, abolishing the Kerrville South Utility District No. 1; House Bill 2202, relating to the compensation for commissioners of the Refugio County Drainage District No. 1; House Bill 2223 (June 15, 1977), relating to directors' fees in the Benbrook Sewer and Water Authority; House Bill 2234 (June 15, 1977), relating to the dissolution of the Pond Creek Watershed Authority; House Bill 2235, relating to annexation, bonds, and acquisition of water by the Bell County WCID No. 1; House Bill 2244 (June 15, 1977), validating act for certain districts; Senate Bill 125, relating to the name and territory of the Neches River Conservation District; Senate Bill 137 (April 5, 1977), adding areas to Cibolo Creek Municipal

Authority; Senate Bill 969, adding territory to Clear Lake City Water Authority; Senate Bill 1282, relating to the boundaries of the Red River Authority of Texas; Senate Bill 1289, relating to the powers and financing of the Runnels County Water Authority; and House Bill 2184 (June 15, 1977), relating to the commissioners of the Calhoun County Navigation District.

PUBLIC EDUCATION

The 65th Legislature enacted a number of important measures relating to public education. These bills covered a variety of subjects, including the administration of various programs by the Central Education Agency, school district administration practices, and the curricula and programs offered in the public schools of Texas. The regular session failed, however, to produce a school finance reform act. This controversial and complex issue will be the subject of a called session of the legislature in July, 1977.

The State Board of Education is authorized by Senate Bill 911 (June 16, 1977) to invest the permanent school fund in certain debentures and obligations of the United States, and the act removes certain restrictions on the sale or exchange of United States Treasury bonds and securities and municipal bonds held for the benefit of the fund.

By resolution, the legislature instructed the State Board of Education to take certain policy and administrative actions. Senate Concurrent Resolution 30 directs the board to revise its accreditation standards to require school districts to evaluate their educational programs in terms of the goals of public education, to assess the proficiency of their students in basic skills at designated grade levels, and to formulate plans for remedial programs if necessary. In addition, the board is directed by Senate Concurrent Resolution 29 to improve its management information system and to make certain that the stored information is accurate, relevant, and nonduplicative.

The requirement that the commissioner of education recommend 15 persons for appointment to the textbook committee at the State Board of Education meeting held on the first Monday in May is changed by Senate Bill 1037 to allow the recommendations to be made annually at any board meeting. The act also removes the requirement that the board meet on the second Monday in November for adoption of textbooks. The date will now be set by the board and specified in the required public notice.

Senate Bill 507 (April 5, 1977) allows the commissioner of education to approve the operation of schools for less than the currently required 180 days of instruction and 10 days of

in-service training and preparation when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities cause the closing of schools. Schools closed for these reasons will therefore not be required to make up a large number of days at the end of the school year in order to qualify for state funding.

The Economic Education Act of 1977, Senate Bill 1040, requires the Central Education Agency to institute a comprehensive economic education program in grades 1 through 12. The purpose of the program is to instruct students in the positive values of the American private enterprise economy, how it functions, and how the individual can function effectively within it as a consumer and worker. House Bill 955 (June 16, 1977) creates the Texas Closeup Program to bring eligible high school students to Austin to participate in a series of tours, lectures, and seminars on state government. Participation in the program by individual school districts is voluntary.

In the area of vocational education, House Bill 788 gives statutory recognition to the Apprenticeship and Training Advisory Committee, which now advises the State Board of Vocational Education on matters relating to the apprenticeship program. The act also allows the commissioner of education to allocate state funds for the support of apprenticeship programs which are directed by local management and labor advisory committees pursuant to contracts with local education institutions. Guidelines for the fiscal and administrative operations of the apprenticeship programs are also included in the act. Senate Bill 283 revises the membership, qualifications, terms, and duties of the Advisory Council for Technical-Vocational Education in order to conform state law to recent changes in federal regulations governing vocational education. The Central Education Agency is authorized by House Bill 761 (March 15, 1977) to allocate available federal vocational education funds to public junior colleges during the current biennium, notwithstanding limitations contained in the General Appropriations Act for the biennium.

Under the provisions of the Texas Education Code a child is entitled to a free public education in the school district in which he and his parents or guardian reside. House Bill 247 provides that in order for a child under 18 years of age who resides apart from his parents or guardian to attend school tuition-free, it must be established that his presence in the school district is not for the primary purpose of attending school. Texas law also requires a child to be at least six years of age on September 1 in order to be enrolled in the first grade. This has caused a hardship for children who transfer to Texas public schools from states that use an earlier date for determining eligibility for the first grade. House Bill 744 allows these transfer students to continue in the first grade rather than drop back to kindergarten.

A school age child of an employee of a Texas Youth Council facility is entitled under provisions of House Bill 936 to attend school in a school district adjacent to the district in which he resides free of any charge to his parents or guardian. Any tuition charge required by the admitting school district shall be paid by the school district from which the student transfers out of funds allotted to it by the Central Education Agency.

The law relating to school district contracts which require competitive bidding is amended by Senate Bill 872. If the average daily attendance of the district is over 3,000 students, contracts of \$5,000 or more must be submitted for competitive bidding. If the average daily attendance is 3,000 or less, competitive bidding is required for contracts of \$2,000 or more. No competitive bids need be taken if the contract is for the repair or replacement of a school building or equipment when the school board determines that the time delay posed by the bidding process would prevent or substantially impair the conduct of classes or other essential school activities.

House Bill 2152 requires that the board of trustees of all school districts with 66,000 or more students in average daily attendance be elected on a seven-two plan, with seven members elected from single-member districts and two elected at large. The two at-large members will be the president and vice-president of the board. The act affects the Houston, Dallas, and Fort Worth independent school districts; however, the Dallas and Houston districts already elect trustees from single-member districts and may continue to operate under their current election arrangement.

The governance, authority, and operation of school districts were subjects of a number of other bills enacted by the 65th Legislature. House Bill 136 requires a school district in which at least 10 percent of the students enrolled are eligible for the federally funded national school breakfast program of free or reduced price breakfasts to participate in the program. House Bill 157 (June 15, 1977) allows a school district to file its annual audit with the Central Education Agency within 120 days from the end of the fiscal year. The law had required the report to be submitted no later than December 1. House Bill 1067 amends the law which required a county to issue election orders and post notices on a proposed consolidation of school districts by giving those duties to the county judge. The requirement that school districts submit plans for the coordination of state and federal compensatory education funds to the Central Education Agency is removed by House Bill 1685 (June 15, 1977). Changes in federal regulations have eliminated the need for the plans. A school district or county school board governing a countywide transportation system is allowed by Senate Bill 496 (June 16, 1977) and House Bill 884 to contract with governmental agencies or nonprofit organizations to

permit the use of school buses for the transportation of senior citizens or handicapped persons. This contract authority is subject to the rules of the commissioner of education.

Senate Bill 629 (June 15, 1977) requires that if in the formation of a municipal school district the territory comprising the new district is to be detached from an existing district and the territory exceeds 10 percent of the total area of the existing district, the proposed detachment must be approved by a majority vote of the residents of each district affected.

A pilot program of school-community guidance centers to locate and assist children with problems that interfere with their education, such as juvenile delinquency or severe behavioral problems, is established by Senate Bill 91. Ten pilot programs will be established around the state; however, they will expire on September 1, 1981, unless continued by the 67th Legislature.

The provisions of a special law governing the operation of the Fort Worth Independent School District are amended by House Bill 2236. Changes were made to conform the notice requirements and date of runoffs in the elections of trustees to the general law on those subjects. House Bill 2258 amends the same special law to provide that any changes in the boundaries of the district must be approved by the governing board of the district.

Senate Bill 1327 (June 15, 1977) abolishes the board of county school trustees in Fayette County and provides that the county judge shall receive no additional compensation for performing the duties of the ex officio office of county school superintendent.

The high school specialization area that appears on teacher certificates is changed by Senate Bill 188 (February 24, 1977) to include grades 6 through 12. The area had previously included grades 7 through 12. Senate Bill 1025 (June 15, 1977) grants immunity from civil liability to school professional employees who administer medicines to school children at the request of parents. Immunity from liability for injuries resulting from gross negligence is not granted by the act.

HIGHER EDUCATION

Major enacted legislation relating to higher education in Texas dealt with such areas as tuition, medical education, and the authority and responsibilities of the Coordinating Board, Texas College and University System.

The authority of the coordinating board to approve or disapprove new construction and repair and rehabilitation of facilities at

institutions of higher education is modified by Senate Bill 450. In considering construction or remodeling projects that cost more than \$500,000, the board is authorized to take into account cost factors and the financial implications of the project for the state. The board's consideration of similar projects which are less expensive is limited to determining the conformity of the proposed project with approved space use standards and the role and scope of the institution. The board's authority to review projects involving major repair and rehabilitation of facilities is limited to those projects that cost in excess of \$100,000.

In order to achieve the greatest possible educational benefit from state funding for institutions of higher education, House Bill 1012 sets out guidelines for establishing and reviewing faculty workloads and for monitoring small classes. The bill requires the coordinating board, in cooperation with other education officials, to develop and recommend general policies and reports for faculty workloads and requires the governing board of each institution to adopt and publish faculty workload rules. Each institution must submit an annual report to the coordinating board showing its compliance with its workload rules. In addition, the act requires each institution to report to its governing board the number of students enrolled in each instructor's class at the beginning and end of each semester and limits the frequency with which a small class may be offered.

House Bill 1410 requires the coordinating board to establish a mandatory uniform method of calculating the official grade point average of students enrolled in an institution of higher education and those seeking admission to a graduate or professional school of an institution of higher education.

In an effort to improve family medical care in underserved urban and rural areas, the legislature passed House Bill 282, which authorizes funding for family practice residency training programs operated by approved medical schools, hospitals, and nonprofit corporations. It is anticipated that many of the residency programs will be located in small community hospitals. The program is administered by the coordinating board, with the advice of a 12-member Family Practice Residency Advisory Committee. House Bill 377 expands the State Rural Medical Education Program to allow Texas residents who are attending medical schools outside the United States which are listed with the World Health Organization to obtain loans, grants, or scholarships from the program. Texas residents who attend medical schools within the United States have first priority in the distribution of loan funds.

Tuition and fees at state colleges and universities are the subjects of several bills passed by the 65th Legislature. Under the provisions of Senate Bill 250 (March 3, 1977), a student who

registers at more than one public institution of higher education is allowed to pay the minimum tuition charge at only one of those institutions; at the other, the student pays only the hourly rate. A student who qualifies as a Texas resident for one institution is to be considered a Texas resident at the second as well. This change will be particularly important where a public junior college and senior college or upper-level institution exist in the same locality. House Bill 243 allows a junior college district to waive tuition for nonresidents who own taxable property in the district. The coordinating board is authorized by House Bill 789 to participate in the Academic Common Market. Consequently, various programs and curricula will be offered by Texas colleges and universities to students of participating states on a resident tuition or registration fee basis. Texas students will be afforded the same opportunity in other participating states. Senate Bill 604 sets forth uniform rules governing the refund of tuition and fees to students who drop courses while enrolled at an institution of higher education or who withdraw from an institution. House Bill 1855 authorizes the governing board of an institution of higher education to use student deposit funds to establish short-term loan programs for students attending the institution.

Senate Bill 111 provides for funds to be appropriated to the coordinating board for allocation to public junior and community colleges in the amount equal to all tuition and laboratory fees foregone each semester as a result of the tuition and fee exemptions required by law. However, no appropriation was made for this purpose for the forthcoming biennium.

Junior colleges are also affected by two other pieces of legislation. House Bill 337 (June 15, 1977) requires that persons appointed to fill vacancies on junior college district boards will serve only until the next regular election of board members rather than for the remainder of the unexpired term. The governing boards of trustees of all countywide community college districts that contain a city with a population of 800,000 or more residents are required by Senate Bill 353 to be elected from single-member districts after January 1, 1978. This currently applies only to Dallas County Community College.

The administration, organization, and designation of specific state institutions of higher education also received the attention of the 65th Legislature. House Bill 188 establishes the University of Houston System. Under the terms of the act, the system is composed of all institutions and entities under the governance of the board of regents of the University of Houston, which is now designated as the board of regents of the University of Houston System. The name of the Center for Human Resources at the University of Houston is changed by House Bill 1679 to the Institute of Labor and Industrial Relations. The institute will conduct a variety of activities and

research programs in the areas of labor-management relations and the labor market requirements for manpower education and training. The University of Houston is authorized under House Bill 961 to levy a student union fee after approval by a student referendum.

The components of the Texas A & I University System are designated as members of The University System of South Texas under the provisions of House Bill 944 (September 1, 1977). The act also changes the name of Texas A & I University at Laredo to Laredo State University and changes the name of Texas A & I University at Corpus Christi to Corpus Christi State University.

The board of regents of Pan American University is authorized by House Bill 248 to establish an educational center at Brownsville. The center may accept only junior, senior, and master's level students and may be discontinued by the coordinating board at its discretion.

Student center fees at Lamar University are increased by House Bill 2189 from \$10 to \$20 for the fall and spring semesters and from \$5 to \$10 for each summer session.

Senate Bill 637 (May 3, 1977) changes the name of Lamar University at Jefferson and Orange Counties to Lamar University at Port Arthur and Lamar University at Orange.

Several changes in the law governing East Texas State University are made by Senate Bill 598 in recognition of the expansion of the institution. The city of Commerce is designated as the site of the main campus rather than the location of the entire university, and the prohibition against a regent being appointed from the county in which the university is located is changed to a prohibition against a regent being appointed from the county in which the main campus is located. The board of regents is vested with the same authority as that exercised by the governing body of Texas Woman's University instead of the authority exercised by the governing body of The Texas State University System. Finally, the university's Texarkana campus is prohibited from offering freshman or sophomore programs and the metroplex commuter program is prohibited from offering programs which duplicate programs offered in the Dallas educational area and which have not been approved by the coordinating board.

The governance of the East Texas Chest Hospital is transferred from the Texas Board of Health Resources to the board of regents of The University of Texas System under the provisions of Senate Bill 1300. The University of Texas at Dallas is authorized by House Bill 1594 to levy a \$15 a semester fee to support the construction and operation of a student union. Similarly, Senate Bill 892 authorizes The University of Texas at Arlington to collect a fee of

\$15 a semester to support the construction and operation of a student union.

The board of regents of Texas Southern University is authorized by Senate Bill 758 to collect a student center fee after approval by a student referendum. The act also allows the board to sell, exchange, or lease certain land held by the university.

The chairman of the board of regents of Texas Tech University is authorized by House Bill 1713 to convey certain property to the state or the city of Lubbock for the widening of Quaker Avenue in Lubbock. Senate Bill 1201 (June 15, 1977) permits Midwestern State University to exchange a certain tract of state-owned land for certain land owned by Midwestern Venture, Ltd. West Texas State University is allowed by Senate Bill 1319 to convey certain land owned by the state. House Bill 1193 authorizes the Texas College of Osteopathic Medicine to acquire and dispose of real property. The power of acquisition and disposition is restricted to property within Tarrant County. In addition, the act eliminates the statutory requirement that the site of the college consist of land provided without cost to the state.

Under the terms of House Bill 30 (May 24, 1977), the governing boards of North Texas State University and Texas Woman's University are prohibited from using the power of eminent domain to acquire land that is dedicated to a public use by another governmental entity. House Bill 2228 grants Texas A & M University eminent domain power to acquire land for the operation of a forest tree seedling nursery by the Texas Forest Service. The power of eminent domain expires on December 31, 1977.

House Bill 509 (March 29, 1977) repeals the statutory waiver of sovereign immunity from suit for Stephen F. Austin State University. Legislative permission will now have to be granted for the university to be sued, which is the usual procedure for suits against state entities.

Several state institutions of higher education located in the city of Houston suffered extensive damage as a result of severe flooding in June, 1976. House Bill 1469 (June 15, 1977) appropriates funds to the institutions to cover the costs incurred by them as a result of the flood.

All contracts for permanent improvements at public institutions of higher education are required by House Bill 1110 (May 20, 1977) to be submitted for competitive bidding. Persons making bids which are lower than the accepted bid are granted the opportunity to appear before the governing board of the institution and present evidence as to their responsibility. House Bill 1994 authorizes the governing board of state-supported institutions of higher

education to adopt rules governing the disposition of abandoned and unclaimed personal property which comes into the possession of their campus security forces. In order to reduce unnecessary costs, Senate Bill 750 limits the required distribution of annual fiscal reports prepared by institutions of higher education.

Senate Bill 95 (September 1, 1977), the Texas State College and University Employees Uniform Insurance Benefits Act, provides retirement annuity insurance and group life, accident, and health insurance for employees of public junior colleges, senior colleges and universities, medical or dental units, technical institutes, and other agencies of higher education under the policy direction of a single governing board. The administration of the act is vested in a council established within the coordinating board. A complementary bill, Senate Bill 93 (March 29, 1977), excludes employees covered by Senate Bill 95 from coverage under the Texas Employees Uniform Group Insurance Benefits Act.

A school which offers intensive review courses designed to prepare students for a certified public accountancy test, public accountancy test, or medical college admissions test is exempted by Senate Bill 81 from regulation as a proprietary school. State law had exempted only schools that offered courses for preparation for law school aptitude tests or for bar examinations.

FAMILY LAW

Marriage and Divorce

House Bill 1854 (May 20, 1977) requires that the results of serologic tests that are given before the issuance of a marriage license be reported to the Texas Department of Health Resources within 24 hours after the results are received from the laboratory when the tests show the presence of syphilis.

Retired district judges and retired judges and justices of appellate courts are permitted to conduct marriage ceremonies by Senate Bill 609.

Parent and Child

House Bill 497 allows an orphaned child who is a resident of a noncorrectional facility of the Texas Youth Council to remain as a resident after becoming 18 years old if the child is still pursuing an education. The bill requires all children to be dismissed from these facilities at age 21.

House Bill 1152 allows the creation of special offices in Brazoria, Fort Bend, Matagorda, and Wharton counties to receive and disburse

child support payments.

Two measures passed by the 65th Legislature concern the recording of vital statistics about a child who is not a man's legitimate child. Both House Bill 1784 and Senate Bill 30 remove from those records statements of legitimacy. Both bills permit the father of a child to have his name entered into the birth records of the child if, subsequent to the birth of the child, he becomes the legally recognized father of the child. House Bill 1784 also permits any person to apply to the Texas Department of Health Resources to have references to legitimacy removed from prior records.

Senate Bill 143 requires the court in a contested child custody case to confer with a child 12 years of age or older about the choice of a managing conservator if requested to do so by any party to the suit. The court is also required to make a record of the interview. The act further permits a conference with a child under 12 years of age in any case involving child custody. The courts are also allowed to consider the circumstances of grandparents in appointing a managing conservator if the parents of the child are deceased.

Senate Bill 209 allows either parent to consent to an autopsy of an unmarried child and repeals a prior provision giving the father first choice in whether or not to consent.

The 64th Legislature made the selling or purchasing of a child a crime, but certain questions about the 1975 enactment remained unresolved. Senate Bill 217 (March 30, 1977) reestablishes the crime of selling or purchasing a child by placing the prohibition in the Penal Code and by resolving the questions about the previous law. Senate Bill 213 specifically authorizes a court in an adoption case to grant to the natural grandparents temporary possession of or access to the child adopted. The prosecuting attorney who generally represents the state in the district court is required by Senate Bill 977 to act as attorney for and represent the State Department of Public Welfare in suits affecting the parent-child relationship and in suits concerning emergency care for a child.

Senate Bill 1153 allows a district court which is hearing an application for a writ of habeas corpus relating to the right of possession of a child to consider cross actions and motions to modify a child custody order if the child has not been in the possession of the person applying for the writ within six months of the date of the filing of the application.

House Bill 880 provides that parents are not responsible for the expense of hospitalization of adult children (18 years of age or

older) in state mental hospitals. Prior law required parental support, if parents were able to provide it, regardless of the age of the child.

Juvenile Delinquency

The Youth Development Council was replaced in 1955 by the Texas Youth Council, and House Bill 754 (April 6, 1977) simply removes from the statutes the old law creating the Youth Development Council.

House Bill 924 (January 1, 1978) allows the judge of a juvenile court to order an examination of a child alleged to be delinquent or in need of supervision to determine if the child is mentally retarded. The bill also provides clearer standards for determining mental retardation. If the court finds that the child is retarded and orders the child sent to a facility of the Department of Mental Health and Mental Retardation or a community facility, the department or facility must accept the child.

A child may be found to be a child in need of supervision for a single violation of laws prohibiting glue-sniffing under the provisions of House Bill 1146 (June 6, 1977). Previous law required, in effect, that a child must have violated glue-sniffing ordinances on three or more occasions before the juvenile court could act.

All prohibitions against nonlawyer judges serving as the judge of a juvenile court are removed by Senate Bill 249 (June 15, 1977). The bill provides that when the judge of a juvenile court is not a lawyer, there must be appointed an alternate juvenile court whose judge is an attorney and to whom a child may turn for a new trial.

Senate Bill 397 repeals a law requiring children who were committed to the Texas Youth Council for a violation of the juvenile court's orders to be placed in a state orphanage rather than in a correctional or rehabilitation facility.

WELFARE

General

The names of the State Board of Public welfare, the State Department of Public welfare, and the Commissioner of Public welfare are changed to the Texas Board of Human Resources, the Texas Department of Human Resources, and the Commissioner of Human Resources, respectively, by Senate Bill 1325. The bill also requires that the board be representative of all geographic regions of the state.

Senate Bill 548 establishes a nine-member panel composed of three state representatives, three senators, and three persons from the State Department of Public Welfare to evaluate the welfare department's alternate care programs. The department is to submit the panel's report to the legislature before January 1, 1979.

Direct Assistance

The Texas Employment Commission is directed by Senate Bill 1189 (September 1, 1977) to establish an employment program for persons receiving public assistance in the form of aid to families with dependent children (AFDC). Aid recipients who are not exempt under federal law are required to register with the commission, and eligibility to receive AFDC is forfeited for failure to register or to accept and keep suitable employment when offered.

House Bill 1755 establishes a six-year pilot project designed to assist and encourage persons receiving aid to families with dependent children in obtaining vocational training and gainful employment. The pilot project is administered by the State Department of Public Welfare through existing educational institutions and selected local site offices in both rural and urban areas. An advisory committee of eight members is created to monitor and evaluate the project.

The penalties for unlawfully obtaining welfare benefits, unlawfully charging a fee to represent an applicant or recipient of assistance before the State Department of Public Welfare, or for disclosing confidential information in violation of The Public Welfare Act of 1941 are increased by Senate Bill 154 (May 25, 1977).

Medical Assistance

Senate Bill 159 (May 25, 1977) increases the penalties for unlawfully obtaining or disposing of medical assistance or for disclosing confidential information in violation of the Medical Assistance Act of 1967. House Bill 1876 (May 13, 1977) gives persons who contract with the State Department of Public Welfare to provide medical assistance the right to a hearing before the department may cancel their contracts.

Food Programs

The use or possession of food stamps in any manner not authorized by law is prohibited by Senate Bill 87 (May 3, 1977). The offense is graded as a Class A misdemeanor unless the value of the stamps is \$200 or more, in which event the offense is a third-degree felony. Unauthorized possession of blank authorizations to purchase food stamp coupons is made a third-degree felony.

AGING

The 65th Legislature directed its attention to the special interests and problems of senior citizens in several pieces of legislation.

The State Department of Public Welfare is authorized by Senate Bill 495 to accept from the federal government a geriatric center located in Austin to be operated as a nursing home and training center.

A public agency or nonprofit corporation that is entitled to receive matching funds from the federal government for programs that recruit retired persons for volunteer community service may also receive state financial assistance under the provisions of Senate Bill 843 (May 13, 1977). The Texas State Committee on Aging will establish criteria for the allocations and will administer the disbursements.

House Bill 1812 provides protection for senior citizens against suits to enforce the collection of delinquent ad valorem taxes. If a person 65 years of age or older files with the county clerk in the county in which the homestead is located an affidavit containing the birth date of the affiant and a description of the land, no suit to collect delinquent ad valorem taxes on real property may be filed against the homestead of the affiant. If a person 65 years of age or older is sued for delinquent taxes, the defendant may file a sworn plea as to age and entitlement to homestead rights. The bill preserves the right of a tax unit to defer action until the property is no longer held by a senior citizen with homestead rights.

ELECTIONS, VOTING, AND POLITICAL CAMPAIGNS

Undoubtedly one of the most significant laws enacted by the 65th Legislature is House Bill 1125, relating to the important area of election administration at the county level. The act authorizes the commissioners court of any county to consolidate the voter registration duties, now performed by the county tax assessor-collector, with the election duties performed by the county clerk. This may be accomplished either by transferring voter registration to the county clerk or by creating the appointive office of county elections administrator to assume voter registration responsibilities and the county clerk's election duties. The administrator would be appointed by a special county elections commission consisting of the county judge, county clerk, county tax assessor-collector, and county chairman of each political party which held primary elections during the last preceding election year. This act also authorizes other political

subdivisions and the county executive committees of political parties to contract with the appropriate county officer (county clerk or elections administrator) for assistance in conducting their elections.

Another important piece of legislation is House Bill 1700, which creates a 14-member commission to supervise a revision of the Texas Election Code. The commission is directed to complete its work before the convening of the 66th Legislature in 1979 and to submit its proposed draft of a new code to that legislature.

Many citizens had complained about the requirement of signing the ballot stub when voting. House Bill 893 eliminates the ballot stub which the voters heretofore had been required to sign. It adds provisions to the law for compelling a voter to testify how he or she voted if, in an election contest, the vote is found to be illegal. Another act of direct interest to many voters is House Bill 244 which makes it lawful for children under 10 years of age to accompany their parents into polling places and voting booths.

The legislature also made a number of changes in the voter registration law by enacting Senate Bill 850. Under provisions of the act, when a renewal certificate mailed to a voter is returned to the registrar as undeliverable at the address to which it was sent, the registrar cancels the registration instead of sending a follow-up notice to the voter's new address. The requirement of preparing new lists of registered voters by March 1 of each year has been eliminated. The registrar will now prepare the annual original precinct lists as of the 30th day prior to the first election in each voting year. Before April 1 in each even-numbered year the registrar will now attach to each precinct list of registered voters a list of names of persons whose registrations were cancelled because of nondelivery of the renewal certificate. For elections held between April 1 and June 30, any person who has failed to receive a renewal certificate but who is still a resident of the county may vote in the precinct where he was formerly registered if he is still a resident of the political subdivision holding the election. The person must complete an application for new registration and leave it with the election officers at the time he votes. In addition, the act requires that applications for registration by mail be in the form of a business reply postcard, or other suitable form, with postage to be paid by the state.

Absentee voting is the subject of four bills enacted this session. House Bill 285 establishes a procedure for absentee voting by persons who become sick or disabled too near the date of the election to be able to vote under the normal procedure by mail. The voter may designate a person over 18 years of age who is not employed by or related to any candidate in the election to act as his representative in hand-delivering the application for a ballot

to the absentee voting clerk, carrying the ballot to the voter, and returning the marked ballot to the clerk. Application for a ballot may be used up to 12 noon on election day. This procedure may be used only in elections where the absentee ballots are to be counted by a special canvassing board. Senate Bill 114 provides that a voter who expects to serve as a poll watcher in an election precinct other than the precinct of his residence may vote absentee by personal appearance. House Bill 1845 requires the secretary of state to prescribe forms for applying for an absentee ballot to be voted by personal appearance and by mail and provides that the application for a ballot to be voted by mail shall be in the form of a postcard. The act eliminates the requirement that the voter accompany his application for an absentee ballot with his voter registration certificate or a statement accounting for his failure to attach the certificate. State law had required that a list of the names of voters who had applied for an absentee ballot be revised daily and be posted in the absentee voting clerk's office through election day. House Bill 1833 amends the statute to provide that instead of posting the list the clerk will maintain it on file in his office and make it available for inspection on request. The clerk may require a person who asks to inspect the list to present identification before allowing him to see it.

The state executive committee of a political party which holds primary elections is authorized by House Bill 1941 to make a temporary appointment of a county chairman in any county that does not have a county party organization. A temporary county executive committee may be elected by the voters attending a meeting called by the temporary county chairman for that purpose. The temporary organization is replaced by a permanent committee elected at the party's primary. The bill also eliminates the requirement that the signers of the petition of a minor party or of an independent candidate for a place on the general election ballot be sworn. However, the circulator of the petition must make a sworn statement as to certain facts in connection with its circulation by way of verifying that the signatures are genuine and that the signers are validly registered voters.

Heretofore the state had not been required to pay any of the expenses incurred by the state executive committee of a political party in holding primary elections. House Bill 436 provides for state financing of those expenses under procedures similar to those for financing the costs of the primaries at the county level.

Senate Bill 1248 amends Article 14.09, Vernon's Texas Election Code, relating to political advertising, by adding a subsection which prohibits expenditure of the funds of a political subdivision for political advertising. The amendment states that the prohibition does not apply to any advertising which describes the factual reasons for a measure and which does not advocate the

passage or defeat of the measure.

The legislature amended the Political Funds Reporting and Disclosure Act of 1975 (Chapter 14, Vernon's Texas Election Code) in various respects by passing Senate Bill 451. Many of the changes are merely to clarify existing provisions, but the bill also makes a number of significant changes. A new provision states that a political committee which is incorporated for liability purposes only is exempt from the prohibition against a corporation's making political contributions and expenditures. Two or more corporations or two or more labor organizations may now join together in setting up political-action arms. A general-purpose political committee may adopt a monthly schedule for filing statements of contributions and expenditures in lieu of the statements required under present law, and the monthly statements must show the names and addresses of persons making contributions or receiving payments aggregating more than \$10 during the reporting period. The 15-day grace period allowed for filing campaign statements before failure to file constitutes an offense also has been eliminated by Senate Bill 451.

House Bill 1773 amends the statute on misleading use of office titles in political campaigns which applied only to campaigns for offices regularly filled at the general election for state and county officers, so as to make it apply to all public offices. The bill also extends the prohibition to include a misrepresentation that the candidate is the holder of any office not then held by the candidate, instead of limiting it to the office for which the candidate is running.

The filing fees to be paid by candidates in a primary election are increased under the provisions of Senate Bill 1091.

Under state law, candidates for and holders of public office were disqualified from service on a district or county executive committee. Senate Bill 707 amends Subdivision 3 of Article 3.04, Vernon's Texas Election Code, to make the disqualification apply only to a holder of an office or a candidate for nomination or election to an office that would appear on a general election ballot. The bill also amends Article 3.03, relating to qualifications of judges, clerks, and watchers, but this amendment is superseded by provisions of House Bill 1660.

State law had permitted changes in the names to be placed on a primary election ballot by reason of death or withdrawal of filed candidates up to the 25th day before the election and changes in the general election ballot up to the 20th day before the election. House Bill 1743 establishes the 40th day before the election as the cutoff date for making changes in the ballot.

Senate Bill 1160 amends the Ethics and Financial Disclosure Law enacted in 1973 to clarify the deadline by which candidates subject to its provisions must file a financial statement. The normal deadline for candidates seeking nomination for the general election is the 30th day after the first Monday in February of the election year.

In response to a federal court ruling made shortly before the general election in 1976 that the failure of the Texas Election Code to permit independent candidates to run for president of the United States violated the federal constitution, the Texas Legislature enacted Senate Bill 1150. The bill prescribes the procedure whereby a person may become an independent candidate or a write-in candidate for president. Senate Bill 1094 provides that write-in votes in a general election for state and county officers will not be counted unless cast for a candidate who has filed a declaration of write-in candidacy with the appropriate officer (the officer with whom an independent candidate for the office sought files his application) by the appropriate deadline. The normal deadline is the last day which is not a Saturday, a Sunday, or an official state holiday preceding the beginning of the period for absentee voting. The declaration may be filed up to 12 noon of the day preceding election day in case of the late death of a candidate whose name is printed on the ballot.

The temporary law enacted in 1975 requiring that all elections other than party primaries, runoff elections, bond elections, and local option elections on the sale of alcoholic beverages be held on four uniform dates in each year is made permanent by House Bill 443. Elections on school maintenance taxes and convention-type elections have been added to the list of elections exempt from the uniform date requirements. The bill also revises the provisions designating the uniform date on which the regular elections of political subdivisions are to be held when the preexisting law specified a date which is not one of the uniform dates.

House Bill 2058 amends Article 7.16 of Vernon's Texas Election Code to provide that runoff elections in cities over 200,000 be held within 30 days following the issuance of the call for the election. The law previously provided that a runoff election be held on the second Tuesday following the issuance of call. Article 7.16 also requires that the elected officers of cities over 200,000 be elected by a majority vote. House Bill 1832 amends the article to provide that where any political party has nominated candidates and the ballot for the main election is arranged in party columns, the runoff ballot will also be arranged in party columns if there are any party nominees to be listed on the runoff ballot. The act also provides that where a city's charter prescribes the procedure for a runoff election, the charter procedure prevails over the statutory procedure.

A county or city bond election had been required to be held not less than 15 days nor more than 30 days from the date of the order calling for the election. House Bill 416 increases to 90 days the maximum length of time between the date of the order and the date of the election.

Under the provisions of House Bill 1660, the restrictions on appointment of election judges and clerks are relaxed by permitting clerks to serve in precincts outside the precinct of their residence and by reducing from the third degree to the second degree of kinship the prohibition against service by judges and clerks who are related to a candidate in the election. The bill also permits a voter who expects to serve as a clerk outside the precinct of his residence to vote absentee by personal appearance.

House Bill 117 increases the maximum rate of pay for election judges and clerks from \$2.00 to \$2.50 per hour and the maximum amount to be paid for delivering the returns from \$5 to \$15.

The optional use of a specially devised form for the precinct lists of registered voters which serves also as the form for keeping the signature roster and the poll list at the polling places is authorized by House Bill 1788. The combination form must be one prescribed by the secretary of state. State law required that any changes in the boundaries of county election precincts be made by the commissioners court during July or August, except that the time for making changes extended through September for the purpose of conforming election precinct lines to the boundaries of commissioner and justice of the peace precincts and legislative districts. House Bill 1008 (June 15, 1977) extends through September the time for changing election precinct lines to conform to the boundaries of wards or districts for electing city council members. House Bill 42 provides that where the boundaries of a county commissioners precinct or a justice of the peace precinct are changed less than seven months before the filing deadline, the usual six-month precinct residence requirement for eligibility to run for a precinct office is replaced by a requirement that the candidate must be a resident of the precinct on the filing deadline and must have been a resident of the county for the six months preceding the deadline.

House Bill 1712 provides guidelines for approval by the secretary of state of mechanical voting systems which do not fit the specifications of either the conventional type of voting machines described in Article 7.14, Vernon's Texas Election Code, or the electronic voting systems described in Article 7.15. The guidelines and procedures for approval are similar to those under Articles 7.14 and 7.15.

A bill that changes "any voting qualification or prerequisite to

voting, or standard, practice, or procedure with respect to voting" cannot be put into effect until it has been "precleared" under the federal Voting Rights Act, as amended in 1975, by obtaining a ruling from the United States Attorney General or a declaratory judgment from the United States District Court for the District of Columbia that the change does not have the purpose and will not have the effect of denying or abridging the right to vote because of race or color or because the voter is a member of a Spanish language minority group. The Texas secretary of state will submit the bills listed in this section of the Accomplishments to the United States Attorney General for preclearance.

TRAFFIC SAFETY AND MOTOR VEHICLES

Traffic Laws

Senate Bill 284 (May 11, 1977) includes within the definition of authorized emergency vehicles exempted from speed restrictions those vehicles operated by emergency medical service volunteers while responding to a medical emergency and vehicles operated by blood or tissue banks while making emergency deliveries of blood, medicine, or organs.

Senate Bill 72 requires that a public hearing be held on request at least once a year by the State Highway and Public Transportation Commission, by each incorporated city, town, or village having a school within its boundaries, and in certain circumstances, by a county, to consider speed limits near public and private elementary and secondary schools. A commanding officer of a federal military reservation is given the power to establish speed limits within the military reservation by House Bill 1931. However, he may not establish a speed limit higher than 60 miles an hour, and a State Highway and Public Transportation Commission order declaring a speed limit on a part of the state highway system which falls within the military reservation supersedes any conflicting order of a commanding officer.

House Bill 368 makes several changes in the law requiring certain actions and reports after a motor vehicle accident. For the first time, a driver involved in an accident resulting in injury, death, or damage is required to give the other driver the name of his motor vehicle liability insurer, and a driver involved in an accident resulting in damage to a vehicle to the extent that it cannot be safely driven is required to notify a local law enforcement agency of the accident. The bill also directs drivers involved in accidents occurring on or along freeways in cities of 100,000 or more population to move their vehicles away from the freeway if they can be safely driven. The minimum amount of damage to one person's property requiring filing of an accident report by

a driver and permitting filing of charges by a law enforcement officer without regard to accident location is raised from \$50 to \$250.

Equipment and Inspection

The 65th Legislature made a number of changes in motor vehicle inspection laws through Senate Bill 1302 (September 1, 1977). The bill requires inspection of safety guards or flaps if they are required equipment on the particular vehicle being inspected, prescribes more detailed procedures than previously existed for denying, revoking, or suspending the certificate of an inspector or an inspection station, and authorizes the Public Safety Commission to adopt uniform standards of safety for vehicle equipment which is required by law to be inspected annually. The bill also raises the amount of several fees, including the fee for a standard annual vehicle inspection, which was increased from \$2 to \$4.

House Bill 1772 provides a five-day grace period after the expiration of a motor vehicle inspection certificate, during which time a motorist is not liable for penalties for failure to have a current inspection certificate.

The legislature modified the requirement that motorcyclists wear protective headgear in Senate Bill 198, which makes the requirement apply only to operators and passengers under 18 years of age.

Registration

The fee for a duplicate motor vehicle license receipt is increased from 25 cents to \$1 by House Bill 1536.

Vehicles owned by volunteer fire departments and used exclusively in the conduct of departmental business are included by House Bill 649 in the class of vehicles exempt from the payment of annual vehicle registration fees.

Drivers' Licenses

With the passage of House Bill 459 the 65th Legislature changed the procedures for granting driving privileges for occupational, rehabilitative, or educational purposes following suspension of a driver's license. The bill authorizes a court to permit operation of a motor vehicle for occupational, rehabilitative, or educational purposes whether or not the person serves a sentence for the offense which resulted in the automatic suspension of a driver's license. Previously, a person who served a sentence for such an offense could not obtain driving privileges. The bill also authorizes a person whose license has been suspended other than by automatic operation of law to apply to a county or district court

where he lives or where the offense occurred for an order granting restricted driving privileges during the period his license is suspended. Previously, application for the order was permitted only in a district court in the county of the person's residence.

Senate Bill 549 dedicates all driver's license fees to the operator's and chauffeur's license fund in the state treasury, to be used for operations of the Department of Public Safety. Previously, one-third of the driver's license fees collected were deposited in the general revenue fund.

The possession and use of a fictitious driver's license is prohibited by Texas law. Senate Bill 109 (August 29, 1977) provides an exception to the existing prohibition by allowing a law enforcement officer to possess and use in criminal investigations a fictitious driver's license issued by the Department of Public Safety if written approval is received from the director of the department.

House Bill 447 provides that the medical history of a driver's license applicant, supplied to the Department of Public Safety or a medical advisory board of the department, is confidential and may not be used except in connection with license consideration and proceedings. All information in an individual's driving record previously had been open to the public. The Department of Public Safety is directed in House Bill 1184 to include on the reverse side of each driver's license a space for information to be entitled "Allergic Reaction to Drugs:_____."

Specialized Vehicles, Load Limits, Etc.

The 64th Legislature authorized unlimited parking in areas or spaces designated for the physically handicapped of vehicles bearing special license plate devices indicating the use of the vehicles for the transportation of permanently disabled persons. The 65th Legislature expanded this principle in House Bill 641 to permit the unlimited parking of vehicles bearing the special devices and being used for the transportation of permanently disabled persons at any meter or in any space without incurring overtime parking penalties.

Senate Bill 76 exempts motor vehicles that are loaded with agricultural products in their natural state, timber, or pulpwood and that are being transported from the place of production to market or the place of first processing from the general provision that requires motor vehicles found to exceed statutory weight limits to be unloaded to the extent of the excess over the statutory limit.

The legislature passed two bills revising the load limits for

certain specialized vehicles operated on public highways. Senate Bill 412 raises the load limits of vehicles used to transport ready-mixed concrete, increases bonding requirements for the vehicles, and authorizes counties, cities, and towns to prescribe weight limitations and require bonds for the vehicles within certain limits. House Bill 1121 prescribes load limits for vehicles used exclusively to transport milk. Neither bill affects federal weight restrictions for national interstate and defense highways.

Two measures passed by the legislature dealt with maximum width restrictions for vehicles operated on public roads. House Bill 223 (March 24, 1977) permits motor and trolley buses with widths not exceeding 102 inches to be operated within the limits of any incorporated city or town and within the county in which the incorporated city or town is located. Operation of buses with widths of more than 96 inches was previously restricted to the limits and contiguous suburbs of incorporated cities having a population of more than 425,000. House Bill 81 exempts vehicles used only to transport and spread fertilizer from the general maximum-width restriction (96 inches) for operation on public highways, but only if the vehicles do not exceed 136 inches at their widest point. The bill also prescribes an annual registration fee of \$50 for each of the vehicles.

House Bill 1324 (May 4, 1977) exempts machinery not designed or adapted exclusively to transport fertilizer but designed or adapted to apply fertilizer from the annual vehicle registration requirements. The bill further provides that machinery not so registered may not be operated on a public highway at a speed greater than 30 miles an hour.

Requirements pertaining to leases filed with the Department of Public Safety for the operation of commercial motor vehicles by persons other than the owners of the vehicles are changed by House Bill 879. Regulated carriers subject to the jurisdiction of the Railroad Commission of Texas or the federal Interstate Commerce Commission are permitted to have in effect more than one lease, and persons filing leases with the department are required to maintain proof of financial responsibility as defined in the Texas Motor Vehicle Safety-Responsibility Act.

Miscellaneous

The Texas Abandoned Motor Vehicle Act was amended by Senate Bill 433, which adds as an alternative definition of a "junked vehicle" a motor vehicle that remains inoperable for a continuous period of more than 120 days. The bill also requires a city or county adopting procedures for the abatement and removal of junked vehicles to include within its procedures a provision for the

filing of a complaint against the owner of a junked vehicle for its removal as a public nuisance. A person found guilty of maintaining a public nuisance under the act is made subject to a fine of not more than \$200.

Senate Bill 934 authorizes an owner of premises or his agent to have removed from the premises any vehicle, except an authorized emergency vehicle, that is parked in a fire lane required to be maintained on the premises.

The fee for a certificate of title is increased from 75 cents to \$3 by House Bill 1537.

HIGHWAYS

One of the most important laws enacted by the 65th Legislature was House Bill 3 (April 12, 1977), which provides increased funding for state highways. The bill requires the dedication of \$700 million in the first year of the biennium, \$750 million in the second year of the biennium, and not less than \$750 million per year after September 1, 1979, to the state highway fund. An extra \$200 million is appropriated to the Department of Highways and Public Transportation for the fiscal year ending August 31, 1978. The bill also limits to \$30 million per year the amount of highway fund money that may be used for policing highways by the Department of Public Safety.

The minimum reimbursement percentage rate paid by the state to cities and counties for the acquisition of highway rights-of-way requested by the State Department of Highways and Public Transportation is increased from 50 percent to 90 percent of value by House Bill 971 (September 1, 1977).

To reduce the costs of maintenance of highway rights-of-way, the legislature passed House Bill 1178, which allows a private individual, with permission from the Department of Public Safety, to mow, bale, shred, or hoe a highway right-of-way and retain, if he chooses, the materials produced by his action.

Senate Bill 124 (May 3, 1977) provides for a revolving fund to finance turnpike feasibility studies and authorizes the pooling of projects within a county and the issuance of turnpike revenue bonds. The bill also creates a mechanism for transferring the Dallas-Fort Worth turnpike to the authority of the State Department of Highways and Public Transportation and sets a date (December 31, 1977, at 12 p.m.) after which tolls may not be collected on that turnpike.

The legislature made several changes in two laws governing the

operation of toll bridges along the Mexican border. Under Senate Bill 993, cities and counties operating toll bridges are specifically given power to recover a reasonable rate of return on invested capital and to use excess revenues derived from toll bridge operations for public-purpose programs.

Senate Bill 1252 extends application of the law concerning causeways and bridges in certain counties bordering the Gulf of Mexico to all counties having a population of 50,000 or more and bordering a bay or inlet opening into the Gulf of Mexico. The bill also authorizes the construction and maintenance of highways and turnpikes in addition to the projects previously authorized under the law and provides that the projects become part of the county road system except under certain circumstances. Further, the measure authorizes a county to issue bonds supported by county taxes to pay for the projects and to appoint an operating board to supervise a project. Pooled projects within a county and joint ownership or joint ventures between two or more counties are also permitted under the provisions of the bill.

CRIMINAL LAW AND PROCEDURE

Penal Laws

Organized crime is the target of Senate Bill 151 (June 10, 1977). Organizations of five or more persons who commit serious offenses are subjected to more serious penalties than are individuals who commit the same offenses.

In response to increasing public concern over the use of children in pornography, House Bill 1269 (June 10, 1977) creates a new obscenity offense. The new law prescribes greater punishment for commercial exhibition or distribution of obscene movies or photographs if the material depicts a minor observing or engaging in sexual activity.

Senate Bill 311 (June 15, 1977) makes it a criminal offense to entice, persuade, or invite a child under the age of 14 years to enter an automobile, building, or other enclosed structure for the purpose of engaging in sexual activity with the child. The offense is a Class A misdemeanor unless the child is taken out of his home county, in which event it is a third-degree felony.

Two new statutes addressed the problem of prostitution in Texas. House Bill 678 (May 27, 1977) increases the penalties for prostitution and makes it clear that the patron as well as the prostitute may be guilty of the offense. House Bill 679 (May 27, 1977) provides that a person who solicits patrons for a prostitute is guilty of promotion of prostitution.

Senate Bill 310 establishes a presumption that a person in the business of buying and selling used personal property or lending money on the security of personal property deposited with him knows property he receives is stolen if he does not record the name, address, and description or identification number of the seller or pledgor, does not record the description of the property, and does not obtain a signed statement from the seller or pledgor that the seller or pledgor lawfully possesses the property.

The prevention of execution of civil process by any means other than evasion is defined as a crime under Senate Bill 481.

The 65th Legislature dealt with gambling offenses in two statutes. House Bill 1124 permits ocean-going vessels to possess gambling equipment and paraphernalia in the state's territorial waters if specified measures are taken to ensure that they are not used for gambling while in the state's territorial waters. Senate Bill 210 permits a person to possess a gambling device manufactured before 1940 without being guilty of a gambling offense if the device is not used for gambling and if the owner notifies the proper law enforcement officials of his possession of the device and provides them with other relevant information.

The penalty for causing serious injury to a child younger than 14 was reduced from a second-degree felony to a third-degree felony by House Bill 1089. The reduced penalty applies when the injury is inflicted negligently or recklessly rather than knowingly or intentionally.

One of the burgeoning areas of nonviolent crime is theft of service. Senate Bill 489 clarifies the criminal offense of theft of service when rented property is involved. The bill specifically applied the offense of theft of service to one who, without the owner's consent and with intent to avoid payment for the rental, holds rented property beyond expiration of the rental period specified in a written rental agreement. The bill also provides that intent to avoid payment for the rental is presumed if the renter fails to return it within 10 days after receipt of a written demand for its return.

Aimed at protecting Texas caves, House Bill 1181 (May 20, 1977) prescribes criminal penalties for vandalizing or polluting a cave or for selling or offering for sale natural formations from a cave without permission of the owner of the cave. The statute also provides for regulation of excavations and other alterations of state-owned caves.

House Bill 2007 changes the term "actor" to "suspect" in the Penal Code.

Criminal Procedure

According to Senate Bill 937, a court before accepting a plea of guilty or nolo contendere must ask whether there exists a plea bargaining agreement between the state and the defendant. If an agreement exists and the court decides not to follow the agreement, the court must allow the defendant to withdraw his plea of guilty or nolo contendere.

House Bill 2257 (June 16, 1977) permits a person charged with a misdemeanor punishable by fine only to plead to the offense by mail and prescribes procedures for disposing of the case without the defendant's appearance if the plea is "guilty" or "nolo contendere."

Judges and other officials involved in administering the bail system are required by House Bill 1214 to keep records of bail decisions and actions for each person arrested. Senate Bill 52 provides that a trial court may deny bail pending an appeal from a felony conviction if the punishment does not exceed 15 years and the trial court believes the defendant, if released on bail, would not appear when his conviction becomes final or would be likely to commit another offense while on bail. If the punishment exceeds 15 years, the defendant may not be released on bail pending the appeal.

In order to better evaluate individual probation requests, House Bill 97 (April 6, 1977) grants counsel for the defendant, an unrepresented defendant, and counsel for the state the right to inspect a probation report prepared by a probation officer which is to be considered by the court in determining whether to grant probation. Courts are authorized by Senate Bill 61 to impose as a condition of probation that a probationer reimburse the county for fees paid a court-appointed attorney. Senate Bill 32 increases the maximum monthly probation fee from \$10 to \$15. The bill also provides that in a probation revocation hearing at which it is alleged that the probationer violated the conditions of probation only by failing to pay probation fees, court costs, restitution, or reparations, the inability of the probationer to pay as ordered by the court is an affirmative defense to revocation, which must be proven by the probationer.

Current law provides that a criminal sentenced to 15 or more years must be delivered to the penitentiary to begin serving his sentence even though he appeals his conviction. House Bill 39 reduces to 10 years the minimum sentence a criminal must begin serving pending any appeal.

If a defendant has been convicted after a plea of guilty or nolo contendere, Senate Bill 334 requires that he receive the trial

court's permission to appeal unless his punishment exceeds that agreed to by the defendant and prosecution and except for matters that have been raised by a motion filed prior to trial. To save the time required for the Court of Criminal Appeals to hear appeals, Senate Bill 155 (May 25, 1977) limits the time within which the trial record, the briefs of the state and the defendant, and bills of exception must be filed with the high court. Extensions may be granted by the Court of Criminal Appeals but the trial judge may no longer grant extensions.

Senate Bill 156 (May 25, 1977) authorizes search warrants for any property or items constituting evidence of an offense or evidence that an offense has been committed. Previously, search warrants could be issued only for specific items designated in the Code of Criminal Procedure, 1965.

In an effort to ease the backlog of habeas corpus cases the legislature passed Senate Bill 1070. This new law modifies the procedures for issuance of a writ of habeas corpus after the petitioner has been convicted of a felony. It requires the hearing on the petition for the writ to be in the court in which the challenged conviction occurred, requires notice to the proper state's attorney, and imposes deadlines for determination of issues raised by the petition to expedite the resolution of habeas corpus cases.

House Bill 1963 (May 26, 1977) changes the proper venue in a rape prosecution to the county in which the victim is abducted or any county through or into which the victim is transported in the course of the abduction and rape.

The maximum fee which the commissioners court of a county may award a physician for having conducted an autopsy is expanded from \$300 to any reasonable fee under House Bill 1936.

Definite standards and time limitations for commencement of a trial against an accused person were adopted by the legislature in Senate Bill 1043 (July 1, 1978). The act requires that all criminal actions be tried within a specified period or be dismissed. The specified period within which a case must be tried may be extended only if one of several enumerated reasons makes trial within the requisite period impossible or impractical, but any extension may be only for the period necessary to overcome the reason justifying the delay.

Senate Bill 157 authorizes the admission of oral statements made by the accused for the purpose of impeaching him when the statement has been witnessed and electronically recorded. A person who has been arrested but not convicted is authorized by Senate Bill 471 to have his arrest record expunged from official state records.

House Bill 905 authorizes return of stolen property in police custody to the owner if no criminal action against the thief is pending.

The ability of the mother of an unmarried deceased person to consent to an autopsy of the body is made commensurate with that of the father of the deceased person in Senate Bill 209.

When a defendant in a criminal action is found incompetent to stand trial, House Bill 951 (September 1, 1977) authorizes the criminal trial court to determine if the defendant requires treatment in a mental health or mental retardation facility. Formerly, the defendant had to be transferred to a civil court for a commitment hearing. The bill also limits the period within which a defendant may be held in custody to examine his sanity.

As a result of Senate Bill 746, a court releasing an accused on personal bond on the recommendation of a personal bond office may now assess against the accused a personal bond fee of \$20 or 3 percent of the amount of bail fixed, whichever is greater.

In order to help meet rising jail costs and to ensure that prisoners' dependents are not neglected, House Bill 1322 provides that a court may impose as a condition to permitting a defendant to serve jail time during the defendant's off-work hours or on weekends a requirement that the defendant direct his employer to deduct an amount directed by the court and send it to the clerk of the court. The money will then be distributed to pay the support of the prisoner's dependents, the prisoner's personal, business, and travel expenses, reimbursement of the general fund of the county for his maintenance in jail, and installment payments on restitution, fines, and court costs ordered by the court.

Similarly, House Bill 1271 provides that a court may sentence a person to confinement during the person's off-work hours or on weekends for failure to make child support payments. The court may require the person to direct his employer to deduct from the person's salary an amount designated by the court to be credited to the arrears in child support payments.

LAW ENFORCEMENT AND CORRECTIONS SYSTEMS

Law Enforcement

Under current law property that is seized and forfeited because it is being used to violate the Controlled Substances Act is forfeited to the Department of Public Safety. Senate Bill 1033 changes the law to authorize forfeiture to the law enforcement agency or unit of government that employs the officer who seizes the property.

In order to provide more flexibility in county law enforcement operations, Senate Bill 986 eliminates the current statutory limits on the number of deputies a constable may appoint and permits the commissioners court of each county to determine the number of deputies each constable may appoint.

House Bill 151 requires the Department of Public Safety to pay additional compensation to any commissioned officer holding a classified position who is required to be on duty more than 40 hours during the final week or weeks of a calendar month, or who is required to appear in court during a month. The bill does not specify the amount of additional compensation but limits it to 10 percent of the officer's regular salary.

Designed to maintain uniformly high quality state law enforcement, House Bill 1396 establishes training requirements for certification for peace officers who have a temporary or probationary appointment.

Senate Bill 701 repeals the prohibition against capitol complex security officers carrying firearms without approval of the director of the Department of Public Safety.

Embodying a response to the increasing need for cooperation of state and federal law enforcement agencies, Senate Bill 146 gives certain federal criminal investigators powers to conduct arrests, searches, and seizures in connection with felony offenses under Texas law.

A special fund in the state treasury was created by House Bill 451 (September 1, 1977). The fund is to be used by the Commission on Law Enforcement Officer Standards and Education in administering its powers and duties. The fund will contain money collected as court costs assessed against persons convicted of certain criminal offenses. Senate Bill 719 (May 24, 1977) authorizes the state treasurer to employ security officers to provide security services for the Treasury Department and to commission peace officers.

Corrections Systems

The 65th Legislature passed House Bill 945, which changes the method of execution of a death sentence from electrocution to injection of a lethal substance. The substance and the person to carry out the execution are to be designated by the director of the department of corrections.

The legislature acted to improve the effectiveness of state probation programs in Senate Bill 39 (June 10, 1977). This statute creates the Texas Adult Probation Commission, with the duty to establish minimum standards for and coordinate the administration

of probation services. The commission has authority to suspend state funds to a judicial district that fails to meet the commission's standards. The bill prescribes new qualifications required for probation officers hired after its effective date.

Senate Bill 1225 authorizes the Texas Board of Corrections to construct a medical facility on the campus of The University of Texas Medical Branch at Galveston. The facility is to be built with funds appropriated to the department of corrections and is to be used as a teaching hospital for patients of the department of corrections. The board of regents of The University of Texas System will operate and maintain the facility.

The department of corrections was given authority under House Bill 670 (June 15, 1977) to contract with other states, the federal government, or foreign governments for the purchase by those governments of bedding, bedding materials, or leather goods manufactured by the department. House Bill 1453 authorizes cities and counties to cooperate in the financing and construction of regional jails and in the supervision of prisoners in regional jails. House Bill 751 provides that the commissioners courts of two or more counties may contract for the joint acquisition, construction, or operation of a jail facility, which is not required to be located at the county seat of any of the counties.

House Bill 1421 (May 26, 1977) provides that the payments from a prisoner to pay his keep in the department of corrections when he is gainfully employed under work furlough privileges shall be allocated to the general operating expenses of the department of corrections rather than to the general revenue fund of the state.

Paving the way for prisoner exchanges between American facilities and foreign governments, Senate Bill 999 (June 15, 1977) authorizes the governor to consent on behalf of the state to the exchange of American prisoners in foreign countries for foreign prisoners in this country pursuant to a treaty between the United States and the foreign country.

The statute that prohibits appointment of an inmate in state prison as a trusty if he has felony charges pending against him in this or another state is repealed by Senate Bill 672.

Prisoners who do not qualify for parole presently receive no aid or supervision after they are released from a penitentiary. To aid these persons in readjusting to society, Senate Bill 152 provides for a period of mandatory supervision after release during which an ex-offender will receive services similar to parole services. The bill also lengthens the time that must be served by persons convicted of certain offenses before they become eligible for parole.

In an attempt to provide a deterrent to repeat offenders and simultaneously prevent first offenders from becoming institutionalized, the legislature passed Senate Bill 695. It provides for "shock" probation whereby the court sentencing a defendant to imprisonment retains jurisdiction of the case for a specified period (90 days in a misdemeanor case and 120 days in a felony case). At any time before the court loses jurisdiction but after the defendant serves a minimum period (10 days in misdemeanor cases and 60 days in felony cases), the court may order him released from imprisonment and placed on probation. The bill also provides that a court may impose as a condition of probation that the probationer participate in community-based corrections programs, including submission to custodial supervision in a community-based corrections facility, and that the probationer pay portions of his income for support of his dependents, restitution to his victims, and reimbursement of the costs of his room and board in a corrections facility, if any.

Designed to provide communication between inmates on work furlough and the department of corrections, House Bill 144 establishes a Texas Work Furlough Program Advisory Board to advise the department of corrections in its administration of the work furlough program and to hear and resolve grievances against the program. The bill also makes inmates employed under the work furlough program eligible for workers' compensation benefits and imposes some restrictions on employers of inmates under the work furlough program relating to discharging work furlough employees, to the percentage of total employees that may be work furlough employees, and to vacation time for work furlough employees. Senate Bill 150 gives the department of corrections the authority to grant inmates temporary furloughs to obtain medical treatment, attend funerals, or visit critically-ill relatives.

COURTS AND COURT OFFICERS AND EMPLOYEES

New Courts

In an effort to ease the congestion plaguing state court dockets, the 65th Legislature promptly passed Senate Bill 330 to create, on April 1, 1977, the 23 new judicial districts that would have been created by the 64th Legislature in an omnibus court bill that passed the house but did not pass the senate during the Regular Session of the 64th Legislature. The act creates new district courts in the following counties: Angelina (217th); Atascosa, Frio, Karnes, La Salle, and Wilson (218th); Collin (219th); Hamilton, Comanche, and Bosque (220th); Montgomery (221st); Deaf Smith and Oldham (222nd); Gray (223rd); Lubbock (237th); Midland (238th); Brazoria (239th); Fort Bend (240th); and Smith (241st). The 241st District Court in Smith County will give preference to

juvenile and family law matters. Four new district courts are created in Bexar County, two of which will give preference to civil cases (224th and 225th) and two of which will give preference to criminal cases (226th and 227th). Four new district courts are created in Harris County, three of which will give preference to criminal cases (228th, 230th, and 232nd) and one (234th) which is not instructed to give preference to any type of case. Three new district courts are created in Tarrant County, two of which will give preference to family law matters (231st and 233rd) and one of which is not instructed to give preference (236th). The legislature also appropriated funds so that the 23 district courts that the 64th Legislature intended to create could begin to function on April 1. Three existing judicial districts are reorganized. Since a new court is created for Collin County, that county is removed from the 59th Judicial District, leaving only Grayson County in the 59th District. The creation of a new court for Hamilton, Comanche, and Bosque counties removes those counties from the 52nd Judicial District, leaving only Coryell County in the 52nd District. Since a new court is created for Deaf Smith and Oldham counties, those counties are removed from the 69th Judicial District, leaving Moore, Hartley, Sherman, and Dallam counties in the 69th District.

Senate Bill 368 is another omnibus district court bill passed by the 65th Legislature. It creates a total of 25 new judicial districts, with 19 of those districts beginning operation on September 1, 1977. New district courts are created on that date in the counties of Hale, Swisher, and Castro (242nd); El Paso (243rd); Ector (244th); Johnson and Somervell (249th); Potter and Randall (251st); Jefferson (252nd); Chambers and Liberty (253rd); Polk, San Jacinto, and Trinity (258th); Jones and Shackelford (259th); and Jasper, Newton, and Tyler (1A). The 252nd District Court in Jefferson County is directed to give preference to criminal cases. In addition to the regular jurisdiction of a district court, the 259th District Court in both of the counties of Jones and Shackelford will have the civil and criminal jurisdiction normally exercised by the county courts. Two new district courts (250th and 261st) are created in Travis County on September 1, 1977. Five new district courts are created in Harris County on September 1, 1977, four of which will give preference to family law matters (245th, 246th, 247th, and 257th) and one of which will give preference to criminal cases (248th). Two new district courts (254th and 255th) are created in Dallas County on September 1, 1977, to give preference to family law matters. On January 1, 1978, one new district court is created in Orange County (260th) and one new district court to give preference to criminal cases is created in Harris County (262nd). Also, on September 1, 1978, one new district court to give preference to criminal cases is created in Harris County (263rd). On January 1, 1979, one new district court is created in Bell County (264th), and two new district courts are

created in Dallas County, one of which will give preference to family law matters (256th) and one of which will give preference to criminal cases (265th).

To relieve some of the crowded dockets in the county courts of this state, the legislature created additional statutory courts in 13 different counties, some of which have jurisdictions concurrent with both district courts and county courts. New county courts at law are created in Galveston County (Senate Bill 806), Walker County (House Bill 810), Hidalgo County (Senate Bill 920), Comal County (House Bill 926), El Paso County (House Bill 1092), McLennan County (Senate Bill 1213), Tarrant County (House Bill 1382), Midland County (House Bill 1519), Tom Green County (House Bill 1733), Randall County (House Bill 2134), and Reeves County (House Bill 2147). The legislature created an additional county civil court at law (Senate Bill 569) and an additional probate court (Senate Bill 522) in Harris County and created one county court at law (House Bill 2142) and two county criminal courts (House Bill 2141) in Dallas County. The County Court at Law of Tarrant County is renamed the County Court at Law No. 1 of Tarrant County (House Bill 1382), and the Probate Court of Galveston County is renamed the Probate and County Court of Galveston County (Senate Bill 806).

House Bill 2166 applies only to the city of El Paso, which presently is authorized to have three municipal courts. This act authorizes the city of El Paso by ordinance to create additional municipal courts as needed. These courts are not courts of record. The creation of one or more courts of record in the city of Fort Worth by the governing body of the city is authorized by House Bill 2238. The 9newly created court differs from the other municipal courts, however, by the fact that in addition to the usual criminal jurisdiction of a municipal court, it has jurisdiction concurrent with the justice court and small claims court in all civil cases arising within the city in which the amount in controversy does not exceed \$200. Senate Bill 914 authorizes the creation of one or more municipal courts of record in the city of Sweetwater by the governing body of the city. This act differs from the other statutes that authorize municipal courts of record in that it contains no provision prescribing the jurisdiction of the court. However, the general laws of the state regarding municipal courts apply to the court authorized by this act.

Existing Courts

A further expression of legislative concern over the increasing need for expanded and improved judicial operations in Texas, Senate Bill 266 is the third major bill of the 65th Legislature creating judicial districts, but it does not create additional courts. Senate Bill 266 enacts a family district court act similar to the

Judicial Districts Act of 1969 and, in Subchapter A, substitutes a district court of general jurisdiction to give preference to family law matters for each of the 31 existing domestic relations courts and special juvenile courts. Subchapter A restructures existing juvenile boards and provides for future juvenile boards in counties having a family district court to be composed of the county judge, family district court judges, and district judges; provides for the jurisdiction and terms of the courts; establishes the qualifications for the judges; and provides for court officials, personnel, and facilities. It allows a judge to receive full credit in the Judicial Retirement System of Texas for his tenure on a court of domestic relations or special juvenile court if he pays into the state treasury 6 percent of the salary that he would have been paid by the state, plus interest. On payment, the judge forfeits all benefits under a county or district retirement system, except for benefits generated by funds paid by the county to the judge above the amount paid to a district judge by the state. It provides for the transfer of funds from the county and district retirement systems to the judicial retirement system and the general revenue fund. Subchapter B creates 31 family district courts on September 1, 1977, by creating the 300th Judicial District through the 330th Judicial District, each replacing a specific, currently active domestic relations court or special juvenile court. Subchapter C provides that the first judge of a family district court created in this act is appointed by the governor; provides for the transfer of cases to the newly created family district court from the replaced court; and repeals each statute establishing or providing for a court of domestic relations or special juvenile court. Subchapter D makes the act effective on September 1, 1977.

The counties of Hudspeth and Culberson are added to both the 205th and the 210th Judicial Districts by Senate Bill 1223 (June 16, 1977). Both of those districts are now composed of the counties of El Paso, Hudspeth, and Culberson. House Bill 1319 reorganizes the 27th and 35th Judicial Districts by removing McCulloch County from the 35th District, adding Mills County to the 35th District, and removing Mills County from the 27th District. The 35th Judicial District now includes the counties of Brown, Coleman, and Mills, and the 27th Judicial District includes the counties of Bell and Lampasas.

Court administration for statutory courts was the subject of several bills. Senate Bill 865 (June 15, 1977) authorizes the appointment and use of a master in each of the courts of domestic relations in Harris County. To increase the efficiency of statutory courts having jurisdiction in both criminal and civil actions in counties in which there is more than one county criminal court or county court at law having such jurisdiction, House Bill 1488 (June 15, 1977) authorizes the establishment of a court

administrator system to be funded by fines collected by those courts, with the county to provide any additional funds that may be needed.

To improve criminal justice and expedite the processing of criminal cases through the county courts in Harris County, Senate Bill 517 (June 16, 1977) authorizes the establishment of a court manager and coordinator system for the county criminal courts in Harris County, to be funded by fines collected by those courts, with the county to provide any additional funds that may be needed. Senate Bill 519 (June 16, 1977) also applies to the county criminal courts in Harris County and authorizes the judges of those courts to select a presiding judge of the county criminal courts, whose duties would include that of chief administrator of the office of county court manager and county court coordinators. It also authorizes the judges to promulgate local rules for practice and procedure in those courts.

The major legislation affecting the Court of Criminal Appeals is Senate Joint Resolution 18, which proposes an amendment to the constitution to provide for a Court of Criminal Appeals with nine judges instead of five judges and to permit the court to sit in panels of three judges for certain purposes. This court faces a record case load. If the voters adopt the proposed amendment at an election to be held on November 8, 1977, the provisions of the amendment will be effective on January 1, 1978.

Effective January 1, 1981, Senate Bill 368 reorganizes the 130th Judicial District by removing the counties of Brazoria, Fort Bend, and Wharton, so that after that date the 130th Judicial District will be composed of Matagorda County only. Since a new district is created for Jones and Shackelford counties, Shackelford County is removed from the 90th Judicial District, leaving Stephens and Young counties in the 90th District, and Jones County is removed from the 104th Judicial District, leaving only Taylor County in the 104th District. The 259th District Court in Jones and Shackelford counties is given the civil and criminal jurisdiction normally exercised by the county courts, and the jurisdiction of the county court of each of those counties is diminished so that each county court will retain the jurisdiction of a probate court but will have no civil or criminal jurisdiction. The county attorney in each of the counties of Jones and Shackelford will represent the state in misdemeanor cases in the 259th District Court, with the District Attorney of the 259th District representing the state in felony cases in that court in both counties.

The county clerks are authorized by statute to preserve records by microfilming, but the clerks of the courts of civil appeals are required to preserve voluminous records of those courts and have not been authorized to reduce their records to microfilm. Senate

Bill 453 authorizes the clerks of the courts of civil appeals to develop a written plan for the microfilming of all records of their courts, which the justices of the court of civil appeals must review and approve before the plan is adopted by the clerk.

The major legislation affecting the courts of civil appeals is Senate Joint Resolution 45, which proposes an amendment to the Texas Constitution to permit more than two associate justices on a court of civil appeals and to permit a court of civil appeals to sit in sections as authorized by law, with the concurrence of a majority of the judges sitting in a section necessary to decide a case. The implementation of Senate Joint Resolution 45 will be decided by the voters at the general election in 1978. If the voters, by approving the amendment, decide to increase the size of existing courts of civil appeals, the provisions of House Bill 1355 will, at that time, increase the size of the courts of civil appeals for the First, Fourteenth, and Fifth Supreme Judicial Districts, each to consist of a chief justice and five associate justices. On January 1, 1983, the act will increase the size of the court of civil appeals for the Second Supreme Judicial District to consist of a chief justice and five associate justices. It also will allow the Chief Justice of the Supreme Court to temporarily assign civil appeals justices to other courts of civil appeals and allow the assignment of a qualified retired justice for active service.

Numerous other changes were made affecting existing courts. The jurisdiction of both of the county courts at law in Lubbock County is expanded to include probate jurisdiction--Senate Bill 1057--and the jurisdiction of the County Court at Law of Angelina County is expanded to include civil cases when the matter in controversy does not exceed \$10,000--House Bill 2134. Recent sessions of the legislature had diminished the jurisdiction of the county court in Parker County and transferred the county court jurisdiction to the district court in that county. House Bill 1482 (May 26, 1977) restores the jurisdiction of the county court in Parker County to the usual jurisdiction of a county court under the constitution and general laws of the state and abolishes the concurrent jurisdiction that had existed between the county court in Parker County and the 43rd District Court. Senate Bill 922 (May 4, 1977) changes the terms of the County Court at Law of Hidalgo County to provide two continuous terms for that court. Senate Bill 1184 authorizes the appointment of four court reporters, instead of three, for the courts of domestic relations in Tarrant County.

Senate Bill 192 (April 5, 1977) provides the supreme court with needed staff to aid the court in its administrative responsibilities by establishing the Office of Court Administration to function under the direction and supervision of the supreme court. It directs the supreme court to promulgate rules of

efficient administration in cooperation with the Court of Criminal Appeals and specifies the duties of the court administrator. The staff of the Texas Judicial Council will staff the Office of Court Administration.

Heretofore, Rockwall County has been the only county not in an administrative judicial district, and Senate Bill 812 amends the administrative judicial district law to include Rockwall County in the First Administrative Judicial District.

The commissioners courts in counties with a population of 1,200,000 or more are authorized under Senate Bill 835 to designate locations within the county and outside of the county courthouse as auxiliary courts for the purpose of conducting nonjury proceedings.

Senate Bill 849 amends the act that authorized the municipal court of record in Houston to provide specifically that the presiding judge has the authority to supervise personnel who are employed by the city to staff the municipal court and perform administrative duties.

In a new article added to an existing statute, Senate Bill 1173 (June 16, 1977), which passed the legislature on the last day of the session, provides for the division of a single municipal court into two or more panels with an associate judge for each panel and makes other provisions relating to the judges and the administration of the panels or divisions of the court.

The law relating to the municipal court of record in Wichita Falls is amended by Senate Bill 119 (June 15, 1977) to remove the court's exclusive jurisdiction of cases involving traffic misdemeanors committed in the city, which probably was unconstitutional; to change the procedure for filing complaints and for selecting jury panels; and to increase the period of time allowed for the filing of briefs on appeal.

Judges

To better inform the citizens and other branches of state government of the court system in this state and to encourage communication between the legislative and judicial branches, House Bill 828 (April 25, 1977) provides that early in each regular session of the legislature the chief justice of the supreme court shall deliver a "state of the judiciary" message evaluating the accessibility of the courts to the citizens of the state and the future needs of the courts.

Several bills make changes in the retirement of judges under the State Judicial Retirement System. Senate Bill 12 (May 20, 1977) reduces the service requirement of 24 years or more at any time to

20 years or more at any time. The law allows the payment of an additional 10 percent of the retirement salary to be added to the base retirement pay of a judge who retires at or before age 70, if he applies for retirement benefits within one year after leaving office. Senate Bill 343 provides that a judge who, on August 29, 1977, had retired at or before age 70 and on that date was serving as presiding judge of an administrative judicial district is entitled to the additional 10 percent of his retirement salary even though he did not apply for his retirement benefits within one year after leaving office. In the past, when a retired judge was assigned to serve as a judge of a court or as commissioner to the Court of Criminal Appeals, the remuneration he received for that service was considered a salary rather than a part of his retirement allowance. Senate Bill 949 makes all payment made to a retired judge while serving in a judicial position a retirement allowance which is in lieu of the regular retirement allowance that he receives when he is not serving in a judicial position.

Senate Bill 1164 was intended to clarify the powers of a presiding judge to assign a retired district judge to a statutory domestic relations court or a special juvenile court; however, the enactment of Senate Bill 266 (September 1, 1977) also during this session of the legislature precludes the necessity for Senate Bill 1164 by abolishing all statutory domestic relations courts and special juvenile courts in the state and replacing each such court with a separate judicial district and a regular district court.

The State Judicial Qualifications Commission is the agency with responsibility and authority to discipline the judges in this state for misconduct, but recent experience has shown that the commission lacks some of the enforcement powers that are needed to effectively discharge its duties. If the voters adopt the constitutional amendment proposed by Senate Joint Resolution 30 in November, 1977, the name of the commission will be changed to the State Commission on Judicial Conduct, and the membership will be enlarged and will include a justice of the peace. Also, the enforcement powers of the commission and the supreme court will be expanded and will include the power to suspend or publicly reprimand a judge or to prohibit him from holding judicial office in the future, the powers of a master will be clarified and strengthened, and certain deliberations, which at this time must be kept confidential, may be made public. The provisions of Senate Bill 365 will conform the statutory law to the changes made in the constitution on the adoption of the amendment proposed by Senate Joint Resolution 30 and will authorize more reasonable mileage and per diem for witnesses who appear before a master.

Several bills relate to the supplemental compensation that a county may pay the judges of certain judicial districts. House Bill 615 authorizes the judges of the 24th and 135th Judicial Districts to

receive from each county in their districts a reasonable sum set by the commissioners court, not to exceed \$1,000 less than the total salary from state and county sources of the judges of the court of civil appeals for that district. House Bill 830 (June 15, 1977) amends an existing statute to allow each of the commissioners courts in the 121st Judicial District to pay the judge of that district \$1,200 per annum for services rendered in performing administrative duties. House Bill 1551 (June 15, 1977) authorizes the judges of the 23rd and 130th Judicial Districts to receive supplemental compensation from the counties in those districts in an amount to make the combined yearly salary of each \$1,000 less than the combined yearly salary received from state and county sources by the associate justices of the First Supreme Judicial District, with each county contributing proportionately according to its population. House Bill 2245 (June 15, 1977) authorizes the commissioners courts in the counties comprising either the 51st or 119th Judicial Districts to pay an annual supplemental salary not to exceed \$8,000 to the judges of those districts, with the contribution of each county to be determined proportionately according to population.

A number of bills affect the duties and authority of the judges of district courts. Senate Bill 65 amends the administrative judicial districts law to provide specifically that it is the duty of a district judge to discharge diligently his administrative responsibilities and to rule on a case within three months after that case has been taken under advisement. It also makes it the duty of the district judge to request the assignment of another judge by the presiding judge to hear an election contest or suit brought for the removal of a local official or to hear any motions to recuse the judge from a case pending in his court. House Bill 782 (May 26, 1977) authorizes the judges of the 51st and 119th Judicial Districts to exchange benches without formal order in any county in either district, which will make the courts in these overlapping districts more efficient and accessible to citizens. House Bill 1152 authorizes the district and domestic relations court judges in the counties of Brazoria, Fort Bend, Matagorda, and Wharton to create child support offices to serve one or more of those counties by receiving and distributing support payments ordered by any district or domestic relations court. House Bill 609 amends the administrative judicial districts law to allow a presiding judge to assign a former district judge who meets certain specified requirements to hear cases within the administrative judicial district and provides for the powers and compensation of such a former district judge while assigned. Formerly, only active and retired district judges could be so assigned by the presiding judge.

The judges of a few statutory courts were being elected to four-year terms at the wrong general elections under the provisions

of Article XVI, Section 65, of the Texas Constitution. Senate Bill 833 conforms the election of the judge of the Probate Court No. 2 of Harris County to the constitutional provisions for the election of judges of a county probate court. House Bill 2215 conforms the election of the judge of the Court of Domestic Relations of Potter County to the constitutional provisions for the election of a judge of that court and also provides for the filling of a vacancy in the office of the judge by appointment by the governor and for the addition of the judge to the Potter County Juvenile Board.

Senate Bill 387 is new law that establishes a recommended minimum continuing legal education program for judges of all municipal courts in the state. Participation in the program is not a mandatory requirement, but the new law recommends that a nonlawyer judge take a 24-hour course in the performance of his duties within one year from the date he is elected or appointed, or within one year from the effective date of this act, and thereafter that he take an 8-hour course in each year. It recommends that a municipal judge who is an attorney take an 8-hour course in the first year and thereafter an 8-hour course in each year. The Texas Judicial Council will supervise the administration of the act and report a judge's failure to comply with the act to the governor, the attorney general, and the city attorney of the judge's city.

The governing body of a municipality is authorized by Senate Bill 468 to appoint a temporary municipal judge while the regular judge is unable to act for any reason. Under existing law, the governing body was authorized to fill a vacancy in the office of municipal judge, but was not authorized to appoint a temporary judge when the office was not vacant. The act also amends existing law to authorize alternate municipal judges who may preside over the municipal court in addition to the regular judge.

Senate Bill 553 directs each of the judges of the 30th, 78th, and 89th District Courts to appoint a bailiff for his court and specifies the qualifications, duties, and compensation of the bailiffs.

House Bill 2207 amends the present law to allow a majority of all the district court judges in Bexar County to appoint an assignment clerk to assist in the coordination, setting, and disposing of cases on the general docket and to authorize compensation for the assignment clerk.

The 65th Legislature took steps to ensure that the citizens of Texas would not be subjected to unpredictable fee assessments by justices of the peace. House Bill 557 completely reorganizes the schedule of fees that are collected by justices of the peace and raises the amount of the fees, which had not been increased since 1945. The revision will require the payment of only one fee of \$7

for an action prior to the entry of judgment and simplifies the fees required after the entry of judgment. It also conforms the language of the statute to the present constitutional requirement that all justices of the peace be salaried officers instead of being compensated on a fee basis. The most important legislation for the justices of the peace is the constitutional amendment proposed by House Joint Resolution 37 to expand the jurisdiction of justices of the peace to include civil cases where the amount in controversy is \$1,000 or less. Presently, they have jurisdiction in civil cases only where the amount in controversy does not exceed \$200.

The compensation of the judges of various county courts was revised by the provisions of statutes that apply to specific counties. Included are the judge of the County Court of Lubbock County (Senate Bill 1235), the judges of the probate courts, county courts at law, and county criminal courts at law in Dallas County (Senate Bill 233), the judges of the county courts at law in Bexar County (House Bill 502), the judge of the County Court at Law of Angelina County (House Bill 1022), the judges of the county courts at law and the court of domestic relations in Nueces County (House Bill 1424), the judge of the County Court at Law of Victoria County (House Bill 2195), and the judges of the county criminal courts, the probate court, and the county courts at law in Tarrant County (House Bill 2253).

Court Officers

The fees collected by county clerks had not been increased since 1967. Senate Bill 184 changes the fees collected by county clerks for certain services and for filing and recording documents. Effective January 1, 1978, it prescribes the size and physical character of legal papers for filing and recording, the type of heading on a page, the legibility of the material, the color of ink and paper, and the size of riders and attachments. After that date, it provides for charging double fees for filing and recording papers that do not meet the specifications, but does not authorize a county clerk to refuse to record any legal paper because it fails to meet the specifications.

House Bill 1280 creates the office of bailiff for the county court in Harrison County and prescribes the duties and compensation of the office. The ceiling on the salary of the stenographers for the 69th Judicial District is raised by House Bill 942.

Senate Bill 586 is a major piece of legislation which will require certification by the supreme court of court reporters and persons engaging in shorthand reporting for use in litigation, such as the taking of depositions. It prescribes extensive tests for certification, to be administered by a commission under the

supervision of the supreme court, and creates the Texas Court Reporters Committee to administer the provisions of the act. It makes a violation of the act a Class A misdemeanor and authorizes the revocation of a certificate by the committee for certain misconduct. An official court reporter of a court of record on the effective date of the act will be certified without examination, and a person who can verify that he was actively engaged in the practice of shorthand reporting for use in litigation in the courts of this state prior to the effective date of the act may be exempt by the committee from the examination requirement.

The maximum reimbursement allowed court reporters of multicounty districts for expenses incurred in discharging their duties outside the county of their residence is increased by House Bill 433 (May 13, 1977). The allowable reimbursements for their expenses had not been increased since 1957. Court reporters required to serve outside their judicial districts in counties other than their residence receive reimbursement under the provisions of House Bill 2193 (June 15, 1977) for their travel expenses and a per diem of \$30 a day while on such assignment, in addition to their regular salary.

Attorneys

Previously discussed under the New Courts section of this report, Senate Bill 368 creates, on September 1, 1977, the office of district attorney for the 258th Judicial District in the counties of Polk, San Jacinto, and Trinity, and for the 259th Judicial District in the counties of Jones and Shackelford.

House Bill 372 (March 29, 1977), promptly passed by the 65th Legislature, creates the office of district attorney for the newly created 220th Judicial District, composed of the counties of Hamilton, Comanche, and Bosque, and appropriates the necessary funds for the office to begin on April 1, 1977. The office of criminal district attorney in three specific counties is created in House Bill 145 (September 1, 1977), House Bill 809 (September 1, 1977), and House Bill 2163, with each of the criminal district attorneys to be compensated for his services by the state in the same manner and amount as the state pays its district attorneys. In each of those counties, Wood, Walker, and Bastrop, the office of county attorney is abolished.

Senate Bill 113 creates the Texas Prosecutors Coordinating Council on January 1, 1978, with authority to develop standards and training programs, prepare criminal justice statistics and reports, recommend special prosecutors, accept grants and gifts, and reprimand, disqualify, or remove a prosecuting attorney for incompetency or misconduct. The act applies to all county attorneys, district attorneys, and criminal district attorneys who

represent the state in criminal cases.

The law requiring county and district attorneys to represent an official or employee of the county in certain suits brought against the official or employee is amended by Senate Bill 337 to provide that the commissioners court shall employ private counsel when it appears that the act complained of may be the basis of a criminal charge against the official or employee.

Senate Bill 281 (June 16, 1977) adds 18 counties to those in which either a county attorney or a criminal district attorney who performs the duties of a district attorney is compensated by the state in the same manner and amount as the state compensates a district attorney. In those counties, the county attorney or criminal district attorney will be a state employee.

The state prosecuting attorney, who is appointed by the Court of Criminal Appeals, may appoint one or more assistant prosecuting attorneys. The requirement that the assistant prosecuting attorneys have the same qualifications as the state prosecuting attorney is deleted by House Bill 1466.

In the past, the salaries of criminal district attorneys have been paid from a county officers salary fund. House Bill 1033 directs that in counties with populations exceeding 600,000, the state comptroller shall pay directly to the criminal district attorney a sum equal to the salary authorized for district attorneys by the General Appropriations Act. The sum is to be paid in equal installments on the first day of each month.

Juries

Presently, the attorney general is responsible for defending a district judge in certain suits, mainly civil rights actions, that are brought in the federal courts, and House Bill 812 enlarges his responsibility to include the defense of a state grand jury commissioner or state grand juror in federal court. Members of the grand juries are selected by grand jury commissioners who are appointed by the district judges, and recently a civil rights action was brought in federal court against the district judge and the grand jury commissioners.

House Bill 1222 was passed to offset inflation in the price of an adequate meal to be served to jurors in the jury room by allowing the court to spend up to \$3 per juror on meals instead of \$1 per juror.

Juvenile Boards

The 65th Legislature created a juvenile board in each of the

counties of Carson, Childress, Collingsworth, Donley, Hall, and Somervell by the enactment of Senate Bill 915 (June 15, 1977) and House Bill 1945. Each of those boards will be composed of the county judge and the district judges having jurisdiction in that county.

The membership of several boards is altered. House Bill 1201 (May 26, 1977) adds the judge of the County Court at Law of Webb County to the Webb County Juvenile Board, and House Bill 2217 (June 15, 1977) adds the county attorney of Andrews County to the Juvenile Board of Andrews County. Senate Bill 1301 (June 15, 1977) includes the judge of the County Court at Law of Hunt County on the Hunt County Juvenile Board, gives him the authority to appoint a citizen member to the board, and increases the compensation allowed all members of the board. Senate Bill 1279, which adds the judge of the court of domestic relations to the Smith County Juvenile Board, has almost no practical effect because the enactment of Senate Bill 266 abolishes all existing courts of domestic relations, replaces each with a district court of general jurisdiction to give preference to family law matters, and restructures the juvenile boards in the counties having a family district court to be composed of the county judge, family district court judges, and district judges.

House Bill 860 is a new statute providing that the judge of each judicial district having jurisdiction in the county and the county judge of each county constitute the juvenile board in each of the counties that comprise the 24th Judicial District and the 135th Judicial District. Senate Bill 718 authorizes the county judge of Liberty County to appoint two or more citizen members to serve on the Liberty County Juvenile Board, which will be composed of the county judge and his appointees. It also provides that the county judge of Liberty County will serve as the juvenile judge if he qualifies under the provisions of the Family Code, with the district judge to serve in his place if the county judge is not qualified under the Family Code. It removes the ceiling on compensation for service on the juvenile board and authorizes assistant juvenile officers, as well as a juvenile officer who may be a citizen member of the board. House Bill 1311 removes the ceiling on compensation for the members of the juvenile boards in Harrison and Rusk counties and the juvenile office in Rusk County. The statutory limitations on the compensation of the members of the juvenile boards in Nueces, Atascosa, Frio, La Salle, Wilson, and Karnes counties are raised by House Bill 2196 (September 1, 1977) and Senate Bill 1017.

PROBATE

Independent Administration

The 65th Legislature enacted several pieces of general legislation pertaining to probate in Texas. This state pioneered in the adoption of the concept of the independent administration of decedents' estates, which avoids the expense and delay incurred in settling an estate under the supervision of the probate court with the court approving virtually every transaction. The Texas Probate Code allows a person to make a will to provide for independent administration and to name the executor of his estate. Senate Bill 66 (September 1, 1977) expands the use of independent administration in Texas to allow the probate court, on application of all of the distributees of an estate, to order independent administration for both testate and intestate estates where the decedent did not provide for it by will, if the assets of the estate do not exceed \$200,000. The methods provided for independent administration for a testate estate in which the will does not provide an independent executor apply only to wills and codicils published after September 1, 1977. The other provisions of the act apply to estates of decedents who die intestate after September 1, 1977. The act expressly provides that a person may specify in his will that no independent administration of his estate may be allowed. If an independent administration is created by the new methods provided in this act instead of by the decedent in his will, a bond is required of the independent executor unless the bond requirement is waived by the probate court. Unless there is proof of fraud or collusion by the judge, a judge is not civilly liable for the misdeeds or omissions of an executor in an independent administration ordered by the court under the new provisions of this act.

Guardians

The provisions of the Probate Code relating to guardianships are the subject of several new laws. Senate Bill 690 clarifies the jurisdiction of the probate court to enter judgment in favor of the sureties against the administrator or guardian in the same suit when the surety is called on to perform in place of the administrator or guardian; removes the requirement that an expenditure from the corpus of a ward's estate be made only in an emergency and changes the \$2,000 total limit to \$2,000 a year; and provides that costs of removal of a personal representative and additional unauthorized expenditures may be assessed against the personal representative or his surety, or both. House Bill 289 authorizes the judge, in his discretion, to appoint and compensate an attorney ad litem to represent the interests of a person who is not a minor in a proceeding for the appointment of a permanent guardian of that person. For instance, this may protect an elderly person in a proceeding where some person is too eager to assume the role of guardian.

House Bill 2240 deletes from the Probate Code the requirement that

a person must read and write the English language to be appointed as a guardian. Senate Bill 485 will permit a noncorporate guardian, as well as a corporate guardian, to file an application to invest in certain property under Section 389A of the Probate Code. Previously, when a ward died intestate, a new proceeding had to be instituted for the court to determine and declare the heirs of the ward.

House Bill 1187 will allow the court having jurisdiction of the guardianship of the ward to also determine and declare the heirs of the ward who dies intestate and will allow the guardian of the estate of the ward to institute the proceedings to declare heirship. It also allows the court in which the proceeding is maintained to order the payment by the guardian of inheritance and estate taxes and expenses of the estate and to order the sale of property in the ward's estate to pay taxes or expenses or to distribute the estate among the heirs.

The 65th Legislature created two special types of guardianships, each for a limited purpose. The Probate Code provided for guardianships of minors and incompetents. Guardianship for everyone except a minor required a finding of incompetency. Senate Bill 699 creates a limited guardianship in which a mentally retarded person is not found legally incompetent in all areas but will have disabilities placed on him in areas where he is incapable of acting due to his mental retardation. The limited guardianship is intended to encourage maximum development of self-reliance and independence of the retarded person. He retains all legal and civil rights except those the court designates in the guardianship order. The act provides procedures and venue for the appointment of a limited guardian of the person or the estate, or both, and prescribes who may be a limited guardian. It specifies the powers and duties of the court, of the limited guardian, and of the Texas Department of Mental Health and Mental Retardation and provides for the termination of the limited guardianship or for the removal or resignation of the limited guardian or appointment of a successor limited guardian when one is needed.

With many persons remaining unaccounted for after the Vietnam War, there is a special need for a guardian to represent an MIA in proceedings before the Department of Defense. House Bill 1445 is not limited to the military but amends the Probate Code to provide statutory authority for the appointment of a guardian of a person who has been reported missing by an executive department of the United States and who still is missing. It provides the procedures for the appointment of the guardian, requires the court to appoint an attorney ad litem to represent the interests of the missing person, and authorizes the court to retain jurisdiction and amend or vacate the order of guardianship.

General Probate

Since 1971, the Texas Probate Code has contained a procedure whereby a person entitled to receive property under a will or by inheritance may disclaim and renounce the property. This is done for tax reasons. Senate Bill 791 amends the disclaimer statute to allow representatives of minors and deceased persons to disclaim and revises the procedure for filing the written disclaimer to accommodate changes made in the federal law by the 1976 Tax Reform Act, which, for instance, allows nine months to file the disclaimer. It makes changes in the notice of disclaimer, eliminates the revocable nature of disclaimers and makes them irrevocable in order to qualify for favorable tax treatment, and clarifies other provisions of the disclaimer law.

The Texas Probate Code has special provisions for handling small estates. One of these allowed the distribution of an estate without the appointment of a personal representative when the value of the estate, exclusive of homestead and exempt property, is not more than \$5,000. Senate Bill 889 (May 20, 1977) amends Section 137 of the Probate Code to raise the value of an estate that may be so distributed from \$5,000 to \$10,000.

In order to bring probate law in Texas up-to-date regarding monetary values, the legislature modified some of the monetary limitations of the Probate Code. Senate Bill 616 amends Section 273 of the Probate Code by raising the allowance in lieu of a homestead from \$5,000 to \$10,000, to bring the allowance in line with current values of property. Senate Bill 617 amends Section 320 of the Probate Code by raising the preference for expenses of the last illness and funeral expenses from \$1,000 to \$2,000. The amount of that preference in the payment of claims had not been changed since 1955.

Senate Bill 53 (May 28, 1977) provides for the inheritance rights of a legitimated child. The Family Code intends to treat legitimated children and legitimate children equally, but the inheritance rights provisions of the Probate Code did not equalize the inheritance rights of legitimated children. This act allows a child who is legitimated by subsequent marriage or by voluntary legitimation under the Family Code to inherit from his father, as well as his mother, as does a legitimate child. The father of such a child may inherit from the child. The legitimated child's right to homestead, exempt property, and family allowances is also clarified.

There was no statutory authority in Texas for the maintenance of suit by a foreign executor for the collection of debts due the estate, and Texas courts had held that a foreign executor cannot sue in Texas courts on a note belonging to the estate without an

ancillary administration, which is expensive. Senate Bill 784 adds a new section to the Probate Code to allow a foreign executor or administrator, if there is no executor or administrator already qualified in this state, to sue in Texas for the recovery of a debt due the decedent. The foreign executor must give notice of the suit to the Texas creditors of the decedent and submit himself to the jurisdiction of the Texas courts so that a Texas creditor may also maintain suit in Texas for sums due him to the extent of the sums the executor recovers in the Texas court.

CIVIL LIABILITIES, REMEDIES, AND PROCEDURE

Civil Liabilities

Texas had no state law prohibiting the use of wiretaps. Senate Bill 170 (June 16, 1977) grants a party to certain spoken communications a civil action for statutory, actual, and punitive damages, for attorney's fees, and for injunctive relief against persons who intercept, or attempt to intercept, certain spoken communications or who use or divulge the information obtained by intercepting the communication and against certain persons who aid or permit the actual or attempted interception. It also provides a criminal penalty for certain persons who aid or permit the actual or attempted interception of those communications.

In response to growing national debate concerning "natural death" and "living wills" the 65th Legislature passed Senate Bill 148. The law is patterned after a recent California statute and prescribes the civil and criminal liability of physicians, health care facilities, or health care professionals for fulfilling, or failing to fulfill, the provisions of a directive executed by an adult to terminate life-sustaining procedures in a terminal condition. The statute establishes the procedures for executing or revoking such a directive and the effect of such a directive, and the carrying out of the directive, on certain insurance policies, on provisions of the Penal Code, and on obtaining health care services. This statute expressly does not authorize or permit any action or omission to end life other than to permit the natural process of dying.

Attorney's Fees

The payment of attorney's fees is the subject of legislative action in House Bill 452. This is legislation that provides for the recovery of attorney's fees in suits on oral or written contracts, except in suits on certain insurance contracts. It deletes from the law the provision that the current State Bar Minimum Fee Schedule is prima facie evidence of reasonable attorney's fees. A discussion of House Bill 318 and Senate Bill 208, relating to the

award of attorney's fees in suits based on breach of restrictive covenants pertaining to realty and in suits to recover land from an adverse possession claimant, respectively, is included in the section of this report pertaining to examining and licensing agencies.

Service of Process

Senate Bill 481 makes it a misdemeanor punishable by a fine not to exceed \$200 to prevent intentionally or knowingly the execution of any process in a civil cause, but provides a defense if a person evaded service of process by avoiding detection. Senate Bill 1062 (June 15, 1977) authorizes the service of citation on the president of the school board or the superintendent of schools in suits against a school district.

Procedure

In an effort to simplify filing procedures and avoid untimely filings, House Bill 524 will allow a person to file suit on the first business day following a Saturday, Sunday, or holiday, if the last day of a limitation period under a statute of limitations falls on a Saturday, Sunday, or holiday. The Texas cases had held that when the period for filing suit under the statutes of limitations ends on a Sunday, the suit is barred by limitations on that day and may not be filed on the following Monday.

Senate Bill 930 (June 16, 1977) will cure the advantage that a creditor had in suits on certain contracts which allowed the creditor to bring the suit in a distant county instead of the county of the debtor's residence. This bill amends the statute that determines venue in the justice court to provide that suits by creditors based on consumer contracts for goods, services, or loans intended primarily for agricultural or personal use may be brought only in the county and precinct where the contract was signed or in the county and precinct of defendant's residence, notwithstanding any provision in the contract to the contrary.

The general venue statute for negligence suits against an executor, administrator, or guardian is amended by House Bill 786. Suit against a person for his negligence may be maintained in either the county of his residence or in the county where the negligent act or omission occurred, but if the negligent party is deceased, his executor or administrator can transfer the case to the county of the executor's or administrator's residence. This amendment to the venue statute will allow a plaintiff in a negligence suit to maintain the suit in the county where the negligence occurred the same as if the negligent person had not died. House Bill 2059 does not prescribe venue, but makes it a deceptive trade practice, with certain exceptions, to file a suit founded on a consumer contract

that was payable in a county other than the county in which the defendant resided at the time of the commencement of the action or in the county in which the defendant signed the contract.

The period of limitations on actions to recover real property that was sold at a tax sale is the subject of House Bill 1830. Usually a purchaser of real property at a tax sale found it necessary to bring suit to clear his title after the two-year period of redemption had expired. This act does not affect the prior owner's right to pay the delinquent taxes and reclaim the property during the two-year period of redemption, but it does provide that an action to recover real property sold for delinquent taxes at a tax sale is barred unless it is brought within three years from the filing of record of the purchaser's deed, or within three years from the date of the act. If an action to recover the property is barred by this statute, the purchaser at the tax sale or his successor in interest has full title to the land, precluding all other claims. However, if a person other than the purchaser at the tax sale or his successor in interest pays taxes on the property during the three-year period following the tax sale, the limitations period established in this act does not run against the person who paid the taxes unless that person was served by process in the delinquent tax suit.

Miscellaneous

The Texas statutes delineating the legal use of assumed names had not been changed substantially since they were adopted in 1921. Senate Bill 186 clarifies ambiguities and modernizes those statutes to provide a more adequate public record of the identity and location of incorporated and unincorporated entities who use an assumed name to transact business or render professional service. It prescribes the procedure to be followed and information to be furnished, requires a new certificate to be filed when an event occurs that causes the information previously furnished to be misleading, and provides for the duration and renewal of an assumed name certificate or for the withdrawal of the assumed name certificate on abandonment of the use of the name. In addition to retaining a criminal penalty, this act authorizes a civil penalty and the award to a plaintiff of expenses incurred, including attorney's fees, in locating and effecting service of process in an action against an entity that is not in compliance with this act. An assumed name certificate filed prior to August 29, 1977, under the old statutes is void after December 31, 1978.

LOCAL GOVERNMENT

Many session hours and days of the 65th Legislature were spent in the consideration of legislation relating to local government. Cities, counties, and special districts and authorities were the subject of measures which treated everything from the demolition and repair of dilapidated structures to the levying of hotel-motel occupancy taxes and even the designation of Klein Independent School District as the "Community of Klein," in order that this very old settlement founded by German immigrants might retain an official identity (Senate Bill 1283).

Cities

Two laws affecting the city hotel-motel occupancy tax were enacted: Senate Bill 333 increases the permissible tax rate to 4 percent and provides that should a city impose the tax at more than 3 percent, at least 1 percent of the revenues must be used to promote the city as a place for meetings, conventions, and visitors. The other measure, House Bill 298, allows cities to use hotel-motel occupancy taxes for the construction and operation of civic theaters and museums for the promotion of the arts.

Provisions relating to the repair or demolition of dilapidated structures that are unfit for human habitation or that present a danger to public health or safety are included in House Bill 506. The bill requires that the city must give the owner notice and hearing before it may require the repair or demolition of a structure. In other housing legislation, House Bill 178, the Texas Housing Rehabilitation Act, differs from earlier housing legislation in that it does not provide for the development of public housing projects. Instead, the act establishes a program for making home improvement loans in neighborhoods that are in danger of becoming slum areas unless the homes are rehabilitated to meet minimum housing standards. The program is to be administered at the state level by the Texas Department of Community Affairs. Both counties and municipalities will administer the act at the local level. When state or federal funding is made available, local programs will be set up to permit eligible homeowners who are unable to obtain home improvement loans from other sources to borrow money for that purpose. In each locality, only persons residing in neighborhoods found by the local government to meet certain criteria relating to the need for housing rehabilitation will be able to participate in the program.

The 63rd Legislature, in 1973, amended the Municipal Annexation Act, Article 970a, Vernon's Texas Civil Statutes, to prohibit a city from annexing a strip of land narrower than 500 feet. This was done to prevent so-called "spoke annexation," the annexation of a narrow strip of land extending outward from a city, usually along

a major highway, to extend the city's area of extraterritorial jurisdiction without having to annex a large geographical area to which city services would have to be provided. House Bill 2104 creates an exception to this prohibition by permitting the annexation of a narrow strip of land if the annexation is done at the request of a majority of the qualified voters residing in the annexed area. Another bill on this subject, Senate Bill 961, allows adjacent cities to adjust their boundaries even though the adjustment may require one or more of the cities to annex an area less than 500 feet wide.

The subject of municipal annexation of territory in special districts furnishing water or sewer service has been addressed by House Bill 656 (May 13, 1977), which, with some few exceptions, prohibits a city from annexing territory in such a district unless the city annexes the entire area of the district, or at least as much of the district as is in the city's extraterritorial jurisdiction. This bill is intended, among other things, to prevent a city from annexing only part of the district, leaving outside the city the remaining portion of the district, which in some cases may no longer be large enough to function effectively.

General law cities desiring to annex their municipal reservoirs will find it easier to do so as the result of the enactment of House Bill 883, which exempts the annexation of a municipal reservoir and certain adjacent territory from various restrictions in the Municipal Annexation Act, Article 970a, Vernon's Texas Civil Statutes, including the prohibition against a city's annexing territory outside its extraterritorial jurisdiction. The consent of residents or owners of territory included in the annexation is not required. The bill does not permit a city to annex territory more than five miles outside the city limits, however, nor does it permit the annexation of territory inside another city's extraterritorial jurisdiction.

Under a 1949 law, when a city annexes territory formerly included in another city and subject to a municipal zoning ordinance, or when a city having municipal zoning is consolidated with another city, the zoning classification of the affected territory remains the same after the annexation or consolidation and may not be changed without approval by the voters in the affected area. The requirement for voter approval is repealed by Senate Bill 1231 (June 16, 1977). Existing state law governing municipal zoning gives municipal zoning commissions authority to recommend to the city council approval or denial of proposed changes in a municipal zoning ordinance. Senate Bill 1209 authorizes cities to enact ordinances providing that in cases in which the zoning commission recommends against a proposed change, a three-fourths vote of the city council is required to approve the change.

Strictly local in character, House Bill 2216 delegates to the city of Port Arthur authority to enact ordinances applicable to the portion of Sabine Lake within its corporate limits which regulate fishing, swimming, recreational activities, littering, and the taking of crabs and other aquatic animals by the use of traps.

House Bill 1278 creates an exception to the rule that a new city may not be incorporated inside the extraterritorial jurisdiction of another city. This bill, which has certain requirements intended to narrow its application, will permit at least 500 qualified voters to initiate incorporation proceedings for a proposed city with a population of at least 8,000.

Enactment of the Public Improvement District Assessment Act of 1977 (Senate Bill 846) enhances the authority of cities and towns to construct and finance such public improvements as pedestrian malls, parks, and parking facilities. This act, which must be approved by the voters of a city or town before it may be used in the municipality, authorizes the erection of a wide variety of types of public improvements to be financed wholly or partially from the collection of special assessments on property in a defined area deemed by the municipal governing body as being peculiarly benefitted by the erection of the improvements. If only part of the cost of the project is paid for by special assessments, the remaining cost may be paid from the issuance of general obligation or revenue bonds from other municipal funds available for the purpose.

The law governing financial audits of cities, towns, and villages is changed by House Bill 2068, which requires an annual audit of the financial affairs of each municipality by a municipal officer or employee or a certified public accountant or public accountant. The bill repeals provisions that required municipal treasurers in some municipalities to publish semiannual financial statements of the municipality as well as other provisions relating to appointment of municipal audit boards.

The authority of a city with population of 1.2 million or more to prescribe the salaries and expenses to be paid elected city officials is the subject of House Bill 1412. At this time, only Houston comes within the population requirements of the act. Generally, the bill sets maximum salaries for municipal officers based on a percentage of the salary of a state district court judge of the county where the city is located. Salary maximums range from 150 percent of the district judge's salary, in the case of the mayor, to 40 percent of a district judge's salary, in the case of city council members. An ordinance setting an officer's salary may not take effect during the officer's current term. There are also provisions for the optional submission of proposed salary ordinances to the voters of the city for approval.

House Bill 1972 (May 30, 1977) exempts city health officers from the requirement of residency in the city served. This exemption was needed to facilitate the appointment of health officers in smaller communities, many of which have no person qualified for appointment as health officer residing in their corporate limits.

Also discussed under the subject of elections, House Bill 2058 relates to the date for holding municipal runoff elections in cities with populations in excess of 200,000.

Cities with programs to continue the payment of salaries of injured employees during their period of incapacity are given authority to sue third parties (other than municipal employees) and recover damages up to the amount of salary paid by the city under the salary continuation program under the provisions of Senate Bill 438 (June 15, 1977).

Senate Bill 202 (April 25, 1977) authorizes cities operating harbor and port facilities to delegate to the board of trustees administering the facilities the power to fix charges, authorize expenditures, prepare budgets, and otherwise manage the fiscal affairs of the facilities while revenue bonds relating to these facilities remain outstanding.

The power of cities and towns to contract with special districts and nonprofit corporations with regard to water and sewer service facilities is clarified and broadened to some extent by Senate Bill 1208. The bill makes it clear that a city or town may contract with a water district or nonprofit corporation for the district or corporation to acquire for the city or town and convey to it one or more water supply, treatment, or distribution systems, sewer systems, or drainage systems.

Mass transit for metropolitan areas again received the attention of the legislature. House Bill 657 makes several changes in the existing mass transit law by requiring the principal city in an affected metropolitan area to hold a public hearing before December 1, 1977, on the question of creating a mass transit authority. If a principal city creates a transit authority by ordinance, the authority must be approved at a confirmation election within three years after its creation or cease to exist. The bill allows the proposed initial territory of an authority to include territory in a county other than a county containing the largest portion of a principal city and provides mechanisms for counties and cities in areas near the boundaries of an authority to hold elections, subject to approval by the authority, for inclusion within the boundaries of the authority. The bill also grants an authority the power, after a tax election, to levy within the authority a sales tax and a use tax, each not to exceed 1 percent of value. Other changes included those in the composition of authority

governing bodies and specific authority for the designation of station and terminal complexes and the acquisition and disposal of interests in real property.

In other legislation relating to transportation in cities, Senate Bill 875 (May 28, 1977) permits a city to provide for the governance of a street transportation system by a board of trustees, whether or not the system is encumbered as to its revenues or physical properties. Former law expressly permitted management by a board of trustees only of an encumbered street transportation system. The bill also reduces the maximum size of a system's board of trustees from nine to five members.

Fire fighters and peace officers employed by Texas cities and towns benefit from House Bill 409, which requires every city and town to provide motor vehicle liability insurance coverage to protect against liability to third parties arising from accidents occurring while the fire fighters and peace officers are on duty. The municipality must either purchase policies of insurance or reimburse the fire fighters or peace officers for extended coverage endorsements added to their individual policies. Coverage must meet the requirements of the Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

In other legislation relating to firemen and policemen, House Bill 1218 amends the firemen's and policemen's civil service law with regard to promotional examinations. The act provides that promotional examinations are open to all firemen or policemen who have ever held a continuous position for two years in the classification immediately below the classification for which the examination is given. In a department classifying positions on the basis of similarity, the requirement applies to the next lower pay grade rather than classification. Senate Bill 443 includes another amendment to the firemen's and policemen's civil service law by requiring that the civil service commission appoint a physician to examine a fireman or policeman to ascertain fitness to continue departmental duties. Should the fireman or policeman disagree with the physician, he has the privilege, at his own expense, of examination by a board of three physicians to determine fitness. The board's decision would be final. Additionally, the act provides that a fireman or policeman certified as able to return to duty following a disability may be reappointed to the classification held prior to his disability.

Another amendment to the firemen's and policemen's civil service statute, Article 1269m, Vernon's Texas Civil Statutes, is contained in Senate Bill 338 and provides that in cities with a population of more than 1.2 million, members of the police department who are employed in a specialized technical area such as criminal

laboratory analysis or police radio communications are in a special class for purposes of promotions. A second special class is created, composed of uniformed and detective personnel. These amendments preclude crossover promotions from a certain level in one class to a higher level in the other class. Senate Bill 459 (August 1, 1977), also applicable to cities with a population of more than 1.2 million, amends the firemen's and policemen's civil service statute to provide that lump-sum payments for unlimited accumulated sick leave on termination of service for firemen and policemen is applicable only in cities within this population bracket.

The police officers' pension system, Article 6243j, Vernon's Texas Civil Statutes, is amended by House Bill 432 to enable cities with a population of 50,000 to 400,000 to participate. The new statute includes a provision allowing reserve, special, or part-time officers to participate in the pension system if the city's governing body or the voters approve the participation.

Senate Bill 499 authorizes cities and towns with a population of more than 20,000 which are operating under the firemen's and policemen's civil service law to provide educational or training incentive pay for firemen and policemen.

Volunteer firemen also received attention by the 65th Legislature with the enactment of Senate Bill 411. Under the act, a relief and retirement fund for fire fighters who serve without remuneration is created. The fund provides disability, retirement, and death benefits for volunteer firemen with participation in the fund optional. Further, the act includes disclosure and solvency requirements for all volunteer fire fighter pension systems.

In other legislation relating to fire fighters and fire fighting services, marine firemen are required to be certified by the Commission on Fire Protection Personnel Standards and Education by House Bill 322 (May 27, 1977). Under the act a marine fireman is defined as a fireman who works aboard fireboats and fights fires which occur on or adjacent to a waterway, waterfront, channel, or turning basin.

House Bill 400 authorizes cities to provide fire fighting services in areas designated as industrial districts within their extraterritorial jurisdiction. The measure provides three ways in which the fire fighting services may be provided in these areas and exempts property owners who provide their own fire protection service from paying any of the cost when the city provides the services to other property owners in the area.

The penalty for failure to obey orders of the county fire marshal is changed by Senate Bill 212 from a maximum fine of \$100 to a

Class B misdemeanor.

Cities and Counties

In the past, the State Department of Highways and Public Transportation has been required by law to reimburse cities and counties for at least 50 percent of the costs they incur in acquiring right-of-way for state highway projects. House Bill 971 (September 1, 1977) raises the mandatory state share to at least 90 percent of the right-of-way cost.

Under a statute enacted in 1975, Article 2370c-2, Vernon's Texas Civil Statutes, cities and counties are authorized to construct criminal justice facilities in cities other than the county seat, provided the city has a population of more than 20,000. House Bill 624 expands this law to permit construction of criminal justice facilities in any city other than the county seat which has a population of at least 17,500.

Both cities and counties are also affected by Senate Bill 993. Under former law, counties and cities operating toll bridges on the Mexican border have been allowed to set tolls no higher than necessary to pay the costs of operating and maintaining the bridges and repaying bonds issued in connection with the bridges. The new statute allows these cities and counties to increase the tolls on their international bridges by including in the ratesetting formula a reasonable profit factor, with resulting increased revenues available for use by the city or county for any public purpose.

Adding to reform legislation enacted by previous legislatures, the 65th Legislature enacted House Bill 1796 to provide that action taken by a governmental body at a meeting on a subject that was not stated on the agenda in the notice posted for the meeting is voidable. Under the bill, the notice requirement does not apply to specific factual information or a recitation of existing policy furnished by the governmental body in response to an inquiry made at the meeting but any deliberation, discussion, or decision with respect to the subject of the inquiry must be deferred to a later meeting after the posting of proper notice.

Counties

More than 20 bills were enacted relating to counties, and among them are several which give additional regulatory authority to this jurisdiction of county government. House Bill 34 (May 26, 1977) provides that the commissioners court of any county may regulate the practice of massage and the operation of massage parlors in the unincorporated territory in the county, including the establishment of standards for their operation, the requirement that license be obtained before their operation, and provision for their

inspection. Under House Bill 1741 (June 15, 1977) counties with populations of less than 6,500 are authorized to own, operate, and maintain public cemeteries and to sell the right to burial in the cemeteries.

House Bill 168 provides that a county with a population greater than 200,000 may establish a civil service system covering all employees of the county. The new measure expands the coverage of the previous law which provided that county civil service systems could be established only in counties with populations greater than 300,000. Again, relating to county civil service systems, House Bill 1140 provides that a county civil service commission may not make or enforce a rule requiring retirement at any age below 70. Should a commission set a mandatory retirement age, an employee who reaches that age may have his employment extended on application to and approval by the commissioners court on a year-to-year basis.

House Bill 801 (June 16, 1977) repeals statutes which authorize counties to levy a special tax for the purchase and improvement of land for parks and which place limitations on the expenditures by counties under 80,000 population for park purposes. Counties may continue to finance park expenditures from general fund revenues or from the permanent improvement fund without limitations.

Several outdated local laws regulating county law libraries are repealed by Senate Bill 561 (May 11, 1977), which provides one general law allowing all counties to operate within the maximum limits outlined in the old laws. Senate Bill 561 also authorizes counties of all sizes to appropriate up to \$20,000 to establish a law library and the amounts needed annually to maintain and operate the library. To provide for funding, each county is authorized to charge a maximum fee of \$10 on each civil suit filed in the county other than a suit for delinquent taxes. The act promotes uniformity in the regulation of county law libraries by repealing many statutes relating to county law libraries in counties of varying sizes.

Many counties, some with small tax revenues, have been operating county jails that fail to meet standards now required by law. To assist these counties in their efforts to provide approved jails, House Bill 751 provides that commissioners courts of two or more counties may contract for the joint acquisition, construction, or operation of a jail facility, which is not required to be located at the county seat of any of the counties involved.

Senate Bill 1064 authorizes the commissioners court in certain counties to appoint a budget officer to prepare the county budget and prescribes the powers and duties of that officer and the commissioners court in connection with the budget if such an officer is appointed.

Dealing specifically with Rusk County, House Bill 699 states that compensation of that county's county auditor shall be set by the district judge or judges in the county but that the compensation may not exceed the compensation of the county judge of the county. Longevity pay of a commissioned deputy of the sheriff's department in any county is increased by Senate Bill 180 from \$4 to \$5 per month for each year of service in the department.

Under House Bill 1976, the county tax assessor-collector is permitted to receive and accept personal checks for the payment of certain local and state taxes and for certain fees. The acceptance of a check, however, does not constitute final payment of the tax or fee if the check is not honored. The comptroller is also given authority under the act to provide regulations for the handling of checks accepted for state taxes and fees.

To insure county officers and employees against liability to third persons arising from the performance of the duties of their office or employment, House Bill 1721 authorizes counties to purchase policies of liability insurance from any insurer authorized to do business in Texas.

Senate Bill 265 (May 24, 1977) and Senate Bill 184 (90-day bill with parts of measure to take effect on January 1, 1978) provide that the clerks of the district and county courts, county clerks, and county recorders shall collect fees when certain legal papers are filed with them or certain services are performed by them. The bills increase many of the fees charged by clerks under preexisting law.

In other legislation dealing with counties, Senate Bill 831 sets up a comprehensive scheme to standardize retention periods of county records and county recordkeeping systems through coordination between the state librarian, regional historical resource depositories, local officials, county record custodians, and a review committee; House Bill 591 reduces from 900,000 to 800,000 the population required for a county before it is authorized to construct and operate a parking station near the county courthouse; and Senate Bill 212 increases to a Class B misdemeanor the penalty for failure to obey an order of the county fire marshal. House Bill 1510 (May 24, 1977), Senate Bill 1292, and House Bill 2248, relating to the validation of certain contracts, proceedings, and land acquisitions by counties, are discussed under the section on "Validating Acts."

The law relating to competitive bids for material to be used by a county is amended by Senate Bill 187 and House Bill 783, which provide that the newspaper in which the advertisement of the bidding is published need not be a daily paper and provide that emergency purchases under \$1,000 may be made by requisition without

advertising for bids.

Senate Bill 133 provides methods by which the elected officials of political subdivisions and the members and staff of a self-insurance fund may receive worker's compensation coverage.

Applicable only to Matagorda County, House Bill 1505 authorizes the county to establish and operate a water supply or sewer system to serve parts of the county outside the incorporated limits of a city or town.

Special Districts and Authorities

House Bill 52 (May 20, 1977), House Bill 2191, Senate Bill 203 (April 25, 1977), Senate Bill 362, and Senate Bill 757 authorize certain corporations, boards, and cities to apply for and accept grants to establish foreign trade zones under federal law in the vicinities of the Houston and Galveston ports of entry, any port of entry in El Paso County, the San Antonio International Airport, and certain airports operated by joint airport boards.

A method of dissolving a rural fire prevention district is provided by House Bill 661.

AGRICULTURE AND LIVESTOCK

The bills enacted by the 65th Legislature relating to agriculture affected all segments for the industry--from livestock regulations to vegetable and fruit dealers to tax assessments by noxious weed control districts. Real progress was made with the adoption of legislation to benefit both the farmer and stockman and the consumer.

The bonding requirements of public grain warehouses have been increased and additional reporting requirements are now imposed on the operators of these warehouses under the provisions of Senate Bill 625 (June 1, 1977). Penalties for violations of the regulatory act are increased, and a new penalty has been added for theft of grain from a licensed grain warehouse in response to recent problems in this area.

A program to control and eradicate pullorum disease and fowl typhoid in chickens, turkeys, game birds, and other domestic fowls is created through the enactment of Senate Bill 973, thus making Texas conform to a long-standing federal program. The Texas program will be administered by the Texas Animal Health Commission and the Texas Agricultural Experiment Station.

House Bill 2129 has perhaps the most far-reaching effect of any of

the bills relating to agriculture. It gives agricultural use a priority in receiving natural gas supplies except to the extent that those supplies of natural gas are required to maintain residences, hospitals, or are required for other uses vital to public health and safety.

The maximum assessment rate for noxious weed control districts is increased by House Bill 126 from three to six cents. Local control has been retained through the stipulation that a district desiring to take advantage of the increase must conduct an election on that proposition. The act also authorizes the comptroller to pay a district matching funds in proportion to the amount raised in the district through assessment if any funds are appropriated for that purpose.

Bonding requirements for dealers in fruits and vegetables are replaced with the establishment of a special fund administered by the commissioner of agriculture for the payment of claims against those dealers with the enactment of House Bill 1745 (September 1, 1977). The act provides that any person transacting business with a vegetable or fruit dealer may initiate a claim against a fund established from the collection of license and other required fees should a dealer violate his contract. The commissioner of agriculture is given authority to publish a pamphlet containing the names of all licensed vegetable and fruit dealers in the state.

The special department of agriculture fund has been eliminated in the state treasury with the enactment of House Bill 1646 (September 1, 1977), which requires that all funds collected by the Department of Agriculture be deposited in the general revenue fund. The maximum rate of interest that may be charged by agricultural credit corporations is established by House Bill 1128 at 3 percent plus the rate of discount established by the Federal Intermediate Credit Banks.

Treated also in the section on Examining and Licensing Agencies, House Bill 1897 eliminates the fixed examination fee of \$50 previously charged those to be licensed as veterinarians and allows the Veterinary Licensing Board to set the fee anywhere between \$25 and \$100. In addition, the act gives the board authority to set license renewal fees within prescribed limits. The upper limit on the amount in the special veterinary fund for administration of the Veterinary Licensing Act has been increased to \$100,000.

Persons who use insecticides and other chemicals for pest control on their own property are exempted from pest control licensing requirements by House Bill 916. The act also allows an employee to use the chemicals on his employer's property without a license if he was hired primarily for another purpose. The law does not authorize use of those chemicals which have restricted use under

EPA rules and takes effect on adoption of the EPA's first list of restricted-use or prohibited-use pesticides.

House Bill 1547 increases the fee collected by the Texas Agricultural Experiment Station for the inspection of commercial feeds from 10 cents to 12 cents a ton and grants the experiment station the power to increase or decrease the fee 1 cent each year, with a minimum of 10 cents and a maximum of 25 cents, as necessary.

Various amendments to the tick eradication law, including expansion of the law to cover all ticks capable of carrying fever (the old law covered only one type of tick) are included in House Bill 1791. The act eliminates the requirement that rules and quarantine orders of the Texas Animal Health Commission under this law must be proclaimed by the governor.

Affecting only Crosby County, Senate Bill 1304 (June 16, 1977) authorizes the commissioners court of that county to conduct annual hearings on petitions by landowners to exclude their property from the noxious weed control district in the county. If the commissioners court finds that land does not benefit from inclusion in the district, it must declare the land excluded and adjust the district's boundaries accordingly.

ALCOHOLIC BEVERAGE CONTROL

The legislature was more active than usual in the field of alcoholic beverage legislation. The most significant item of legislation on this subject was House Bill 815, enacting the Alcoholic Beverage Code. Effective on September 1, 1977, the code is part of the Texas Legislative Council's ongoing statutory revision program. It is a formal revision of the Texas Liquor Control Act. Although it makes no substantive change in the law, the code completely rewrites the state's alcoholic beverage laws in modern English and reorganizes the statutes in a more logical, readable form. The code is the first comprehensive revision of Texas law in this field since the enactment of the Texas Liquor Control Act in 1935.

A number of other bills dealing with the subject of alcoholic beverage regulation were enacted but, unlike the Alcoholic Beverage Code, these bills made substantive changes in the law. Among them, Senate Bill 730 revises the law in many respects as well as incorporating into the new code substantive changes made by other bills passed during the session. Substantive changes made by Senate Bill 730 include provisions for the payment of a civil penalty by a licensee or permittee in lieu of cancellation or suspension of a license, authorization for local distributor's permittees to provide equipment and fixtures for selling alcoholic

beverages to mixed beverage and private club registration permittees, relaxation of rules governing the purchase of alcoholic beverages by mixed beverage and private club registration permittees, and expansion of the hours during which a local distributor's permittee may sell or deliver liquor to a retailer.

State regulation of private clubs operated under the pool system is significantly altered by enactment of Senate Bill 839. The pool system is a system of club operation in which a common stock of alcoholic beverages is owned in common by all members, as opposed to the locker system in which each member owns his own alcoholic beverages individually and has them stored in a locker on the club premises. Formerly, pool system clubs were only allowed in counties that were at least partly wet (although the club could be in a dry part of the county). Senate Bill 839 makes pool system clubs legal in all areas of the state. Also, the law formerly required that the alcoholic beverage pool be replenished only by collection in advance of equal amounts from all members. This new law permits, as an alternative method of replenishing the liquor pool, the collection of a fixed percentage of the service charge on each drink when it is served. Under the alternative system, those members who consume a larger share of alcoholic beverages will pay a proportionately larger share in the replacement of alcoholic beverages.

Hotel guests will now be able to order mixed beverages to be delivered to them in their rooms. Senate Bill 868 permits mixed beverage establishments located in hotels to make deliveries of mixed drinks to guests in hotel rooms. Former law authorized the delivery of wine and beer only to individual rooms.

The liquor industry will be aided in its transition to the metric system under provisions of Senate Bill 731, which reduces the minimum permissible size for liquor containers to make it possible for the industry to sell the metric system container of liquor corresponding to the half-pint. The metric container is slightly smaller than a half-pint, which was formerly the smallest permissible size allowed for general distribution.

Air travelers at some Texas airports where mixed beverages could not be sold formerly will now be able to purchase a mixed beverage under the provisions of House Bill 532. The measure authorizes the sale of mixed beverages in municipal airports owned by cities with populations in excess of 175,000 where it is legal to sell liquor by the drink in the cities concerned. Although possibly applicable in other places, the bill was passed at the urging of citizens of Lubbock who were interested in the sale of mixed beverages at that city's airport. Lubbock is in a wet area but the airport, located outside the city's boundaries, is in dry territory.

House Bill 2036 requires applicants for certain retail alcoholic beverage permits or licenses to demonstrate to the Alcoholic Beverage Commission, as a prerequisite to obtaining a beverage permit or license, that they hold, or have applied for and are qualified to receive, a state sales tax permit for the place of business for which the license or permit is sought. The cancellation or suspension of an alcoholic beverage permit or license for failure to maintain a sales tax permit or for becoming delinquent in payment of the state sales tax is also authorized. The existing law regarding the furnishing of bonds by permittees subject to the mixed beverage gross receipts tax is changed to allow the submission of a certificate of deposit, certificate of savings, or letter of credit issued by a Texas financial institution in lieu of all or part of the face value of the bond.

The manufacture of wine in areas of the state that prohibit the sale of alcoholic beverages is now permissible with the enactment of House Bill 1517, which creates a new class of alcoholic beverage permit called the "farm winery permit." Although a person in a "dry" area may operate a winery under terms of the act, the holder of the permit would not be allowed to sell the wine in the area but would have to consummate all sales in an area where the sale of wine is legal.

Another measure affecting the alcoholic beverage industry is discussed in the section under "State Finances--Taxing and Spending." The act, House Bill 1688, relates to the qualification of certain liquor dealers for exemption from obtaining a resale certificate under the sales tax law.

ENVIRONMENTAL PROTECTION

Water Quality

The Water Code is amended by two bills. Regulation of pollutants is expanded under House Bill 1560 (October 1, 1977). The code is amended by adding a definition of "pollutant" that includes dredged materials and industrial, municipal, and agricultural wastes. Under the new law, the Texas Water Quality Board will issue permits under the approval of the Administrator of the United States Environmental Protection Agency and in accordance with the Federal Water Pollution Control Act. The board may also issue supplements to permits that comply with state pollution statutes. The Water Code is further amended by the act to include a prohibition against the issuance of a permit authorizing the discharge of radiological, chemical, or biological warfare wastes. House Bill 1631 enlarges the criteria for political subdivisions receiving financial assistance for water quality enhancement. The statute changes the Water Code by providing that, on applications for water quality

enhancement funds, consideration will be given to whether or not the political subdivision has been designated as a part of a regional system for waste disposal needs.

Under the provisions of House Bill 1430, the electorate may vote to approve the Water Quality Board's designation of their area for an area-wide system for the collection, treatment, and disposal of wastes. House Bill 1429 authorizes the Water Quality Board to execute agreements with the Environmental Protection Agency that will provide for the board to administer programs supplying local governments with federal grants for the construction of waste treatment facilities.

Authorization for the State of Texas to regulate the discharge of dredged or fill material is granted by Senate Bill 579. The law provides the power for the governor to enter into an agreement with the United States enabling the state to exercise the regulatory authority provided by the Federal Water Pollution Control Act amendments of 1972.

The maximum period of time for suspension or refusal to renew the permit of a salt water hauler is changed by House Bill 1662 from six months to one week.

Solid Waste

The regulatory authority of the Solid Waste Disposal Act is broadened by Senate Bill 764. The definition of solid waste is amended to include garbage, refuse, and sludge from a waste treatment plant or air control facility. The law adds processing of solid waste to the activities regulated by the Solid Waste Disposal Act, and provides for the issuance of hazardous waste permits by the Texas Water Quality Board. If a county exercises solid waste licensing authority, the rules must be as stringent as those promulgated by the state agency that regulates solid waste disposal.

ANIMALS

Only two bills directly relating to animals were passed by the 65th Legislature. House Bill 1898 allows a veterinarian to dispose of animals abandoned in his care if he notifies the animal owner of his intention to do so by certified mail. In addition, a veterinarian who renders emergency aid to an animal at the request of a person other than the owner or on his own initiative is granted immunity from liability to the owners except in cases of gross negligence. The recordkeeping requirements for slaughterers of livestock are amended by House Bill 1599 (June 15, 1977) to apply to those who slaughter horses. Records must be kept which

include a description of the horse and the name and address of the seller of the horse. The purpose is to discourage the sale and slaughter of stolen horses.

BUSINESS REGULATIONS

Business and Commerce

The Assumed Business or Professional Name Act, Senate Bill 186, requires a corporation, partnership, or individual doing business under an assumed name to file a certificate with the county clerk of the county where the business is conducted and, in the case of a corporation, with the secretary of state, disclosing the true name of the persons or corporation and the nature of the business conducted.

The procedure for filing and amending financing statements for property subject to a security interest is regulated under Senate Bill 205, which also prescribes the method of notifying other persons who may have a security interest in the same property.

Authority to establish foreign trade zones was granted to El Paso by House Bill 52 (May 20, 1977), to Galveston by Senate Bill 203 (April 25, 1977), and to Houston by Senate Bill 757.

An artist's property that is on exhibit at an art gallery is protected from the claims of the gallery's creditors by House Bill 1338.

Corporations and Associations

When a business desires to incorporate without changing its name, it must publish a notice of its intent to do so in a newspaper in the county where its principal office is located. The requirement that an additional notice be published at the seat of state government is eliminated by Senate Bill 75 (May 4, 1977).

A limited partnership from another state or country is allowed to do business in Texas by Senate Bill 215 (June 15, 1977). The internal affairs of the partnership may be governed by the laws of its home state or country while Texas law will govern the partnership's external affairs in this state.

Under the provisions of House Bill 1437, one person is allowed to form a professional corporation. The minimum number of directors has been reduced from two to one, and one person may serve as both president and secretary.

Two bills deal with the administration of corporate franchise

taxes. Senate Bill 788 requires a corporation to provide the following information on its franchise tax report form: the names and addresses of its officers and directors, the names of corporations that own a 10 percent or greater interest in the filing corporation, and the names of corporations of which the filing corporation owns a 10 percent or greater interest. If a corporation fails to pay its franchise taxes, House Bill 1860 provides that it will lose its right to do business in the state. The bill also regulates the liability of the corporation's officers and directors for the overdue taxes.

Senate Bill 857 (January 1, 1978) requires certain nonprofit corporations to keep their financial records in accordance with accepted accounting practices and make their books and records available to the public.

The Texas Miscellaneous Corporation Laws allow a corporation to make guaranties only if they are expected to benefit the corporation. Senate Bill 631 authorizes a corporation to make a guaranty respecting a subsidiary, parent, or affiliated corporation without a determination that it will benefit the guarantor corporation.

The fines that a corporation or association may have to pay on conviction of an offense have been increased by Senate Bill 787 (June 16, 1977). In addition, the court may also require the corporation to notify any person the court deems appropriate of the conviction.

An association that does not comply with the Cooperative Association Act, but which used the word "cooperative" as part of its business name prior to September 1, 1975, is allowed by Senate Bill 1042 (May 11, 1977) to continue to use "cooperative" in its business name until September 1, 1978. After that time, an association must comply with the Cooperative Association Act in order to call itself a cooperative.

Conservation and reclamation districts and nonprofit corporations are authorized by Senate Bill 1208 to convey water and sewage systems to cities and towns. The municipalities may pay for the systems from revenue raised by the system or from tax revenue.

Nonprofit corporations are exempted by Senate Bill 1102 from the general rule that a corporation may not purchase or own more real estate than is necessary to carry on the corporation's business.

Industrial Development

The definition of "rural areas" in the Texas Rural Industrial Development Act is amended by House Bill 1168 to include

incorporated cities of less than 20,000, making them eligible for the benefits under the act.

The legislature has recognized the increased importance of minority business to the state. House Bill 1226 creates a Minority Business Enterprise Division within the Texas Industrial Division. Formerly, minority business affairs were handled by an Office of Minority Business Enterprise within the Community Development Division of the Industrial Commission.

The Act for Development of Employment and Industrial Resources of 1977, House Bill 1990, authorizes cities and counties to attract industry to their areas by acquiring property, improving it if necessary, and selling or leasing the property to industry.

Financial

Federal revenue sharing funds received by the state are placed in a trust fund. Previously, when cash in the trust fund exceeded state expenditure requirements, the comptroller of public accounts was authorized to invest the excess in U.S. Government securities only. To increase the revenue the state can earn by investing this excess, House Bill 2079 authorizes the comptroller to invest the excess in various types of federal securities, in federal banks and savings and loans, and in certificates of deposit of state and federal banks.

A person holding securities in a fiduciary capacity is authorized by House Bill 514 (May 30, 1977) to deposit the securities with a clearing corporation or, in the case of federal securities, with the Federal Reserve Bank of Dallas. Banks and trust companies depositing securities under this bill are subject to the regulations of the Federal Comptroller of Currency and the Finance Commission of Texas.

The authority of the savings and loan commissioner is expanded by Senate Bill 742 (May 25, 1977) to include the issuance of cease and desist orders and to appoint receivers to prevent unsound practices in a savings and loan association. The bill further provides that a savings and loan association may voluntarily place itself under the supervision of the commissioner, and expands the commissioner's power to reorganize, merge, or consolidate savings and loan associations.

A subpoena issued by the securities commissioner may be served by the commissioner, his agent, a sheriff, or a constable under the provisions of House Bill 1158. Previously, only a sheriff could deliver the subpoena. The bill authorizes the securities commissioner to disclose confidential information to other state agencies if the disclosure is approved by the State Securities

Board. The bill also eliminates some fees and reduces other fees charged by the securities commissioner.

The powers of the Banking Commissioner of Texas is the subject of four bills. Recent amendments to the Federal Bank Holding Company Act of 1956 authorize the state banking commissioner to approve or disapprove certain acquisitions by banks and bank holding companies in Texas and allow the commissioner to express his views before the Federal Reserve Board concerning certain other acquisitions. House Bill 1441 (June 15, 1977) provides the legislation needed to allow the commissioner to exercise the powers granted by the federal act. The authorization to examine the affiliates of a state bank to safeguard the depositors, creditors, and shareholders of the bank and to enforce the Texas Banking Code is given to the banking commissioner by House Bill 1442. In addition, the commissioner is given the authority by House Bill 1416 to issue a bank charter for one bank to take over another bank that is in an unsound financial condition without complying with certain procedural requirements. House Bill 1826 increases the fees the banking commissioner may charge to examine the records of perpetual care cemetery associations.

Several bills affect state banks. The acquisition of state banks is regulated by House Bill 991 (May 26, 1977). No one may acquire more than 25 percent of the voting securities of a bank unless the acquisition is approved by the Banking Commissioner of Texas. The procedure for incorporating a state bank is regulated by Senate Bill 945. In addition, Senate Bill 456 (March 10, 1977) prohibits a state bank from moving from one county to another.

Two bills deal with custodian banks. When state funds are deposited with a bank, the bank must either deliver a depository bond to the state treasurer or deliver valuable securities to the state treasurer or to a custodian bank approved by the treasurer. House Bill 1082 (May 20, 1977) authorizes the custodian bank to deposit these securities with the Federal Reserve Bank of Dallas. A bank that is acting as custodian for several different funds may place all the funds in a common trust fund. House Bill 1557 amends the Uniform Common Trust Fund Act and the Texas Uniform Gifts to Minors Act to allow a custodian bank that is a member of an affiliated group of banks to place these funds in a common trust fund of any one of the affiliated banks.

House Bill 785 (June 10, 1977) exempts from the licensing and registration provisions of the Securities Act those persons who are officers, directors, or employees of a bank with less than 500 shareholders and who participate in the sale of their bank's securities. When a bank holds shares of its own stock in trust for another, Senate Bill 667 will allow the bank to vote the shares in the election of the bank's directors only when the trust instrument

directs how the shares shall be voted.

Normally a bank may not lend an amount greater than the bank's capital and certified surplus to any one borrower. Senate Bill 661 provides an exception for repurchase agreements guaranteed by the United States.

When July 4, November 11, or December 25 falls on a Saturday, Senate Bill 388 allows a bank to close on the previous Friday. When January 1, July 4, November 11, or December 25 falls on a Sunday, banks may close on the following Monday. The bill also allows banks to provide safety deposit box services on Saturdays.

The practice of requiring a borrower to take out separate loans for the purpose of charging him separate loan fees that would total more than the authorized loan fee under a single loan is prohibited by Senate Bill 998. The bill also adjusts the maximum authorized loan fees.

Loans issued by the Federal Housing Administration are permitted by Senate Bill 685 (April 28, 1977) to bear interest at a rate allowed under the National Housing Act, and further permits loans insured by the Veterans Administration to bear interest at a rate permitted under the Veterans' Benefits Code, even though the interest would otherwise exceed that allowed under Texas law.

Three other bills relate to interest rates. Senate Bill 475 raises to 1-1/2 percent a month the amount of interest a registered securities broker or dealer may charge for carrying a debit balance in a customer's account. A maximum interest rate of 10 percent a year is set by Senate Bill 882 on securities issued by state agencies. House Bill 1883 raises the maximum rate of interest on loans of \$500,000 or more to finance the exploration for and development of oil and gas resources from 10 percent to 18 percent a year.

In other legislation, Senate Bill 469 regulates the civil liability of persons who violate the provisions of the Securities Act governing the sale and purchase of securities. The annual license fee for certain lenders is raised by House Bill 1490 (May 30, 1977). The bill also provides for an increase in the maximum fee that the Consumer Credit Commissioner may charge to examine licensed lenders and pawnbrokers.

Utilities

Political subdivisions are prohibited by Senate Bill 407 from issuing authorization for the construction or occupancy of a new apartment house or for conversion to a condominium unless the electricity consumed by the occupants of each dwelling unit is

measured by individual metering provided by a utility company or by submetering provided by the owner of each unit. The bill provides that the owner of an apartment house which is submetered may not charge the tenants more than the cost per kilowatt hour that he is charged by the utility company.

The statute which authorizes the creation of "joint power agencies" through the pooling of resources by private interests, the state, and local governments is amended by Senate Bill 360 (April 29, 1977). Use by participating entities of the power of eminent domain for the purpose of obtaining minerals is prohibited, and the provisions relating to bonds, notes, and the procedure to be followed in awarding construction contracts are altered. Ordinances creating these agencies and certain agreements of the agencies are validated.

Cities and towns are authorized by Senate Bill 1208 to contract with conservation and reclamation districts or other nonprofit corporations to acquire a water supply or treatment system, distributions system, wastewater collection or treatment system, or drainage system. The payments from the city or town may come from combined revenues of the system and taxes, and the payments may begin as soon as the system is constructed.

Senate Bill 1046 allows an incorporated city with a population of 75,000 to set aside part of the proceeds of revenue bonds issued to finance the construction of an electric utility plant in order to pay interim interest on bonds for the construction of the facility and to establish or supplement a reserve fund created for the benefit of the holders of the bonds. The investment of bond proceeds, interest and sinking funds, and reserve funds is authorized pending use for their intended purposes.

Refunding bonds is the subject of two bills. Senate Bill 1103 authorizes certain cities that own combined water, sewer, and electric systems to issue such bonds to refund outstanding interest-bearing obligations under certain circumstances. Cities, towns, and villages are authorized by House Bill 1550 to issue refunding bonds to take up indebtedness of electric utilities financed solely by revenue bonds.

Other legislation affecting public utilities is Senate Bill 684, which provides that a city with a population of more than 1,200,000 may sell an unencumbered natural gas system owned by it without an election as required of other cities. In addition, Senate Bill 1143 provides that political subdivisions may finance, construct, acquire, or operate facilities jointly, and it validates certain agreements between political subdivisions which jointly own utility systems.

Consumer Protection

Two bills protect consumers and farmers from having to defend certain lawsuits in a distant county. House Bill 2059 makes it a deceptive trade practice for a creditor to sue on a contract for consumer or agricultural goods, services, or loans other than in the county where the defendant resides or where he actually signed the contract. Under the provisions of Senate Bill 930 (June 16, 1977), small claims by creditors on contracts for consumer or agricultural goods or services must be brought in a justice of the peace court in the county and precinct where the defendant resides or where he signed the contract.

In other legislation relating to consumer protection, the Deceptive Trade Practices--Consumer Protection Act was amended by Senate Bill 664 (May 23, 1977) to define "unconscionable action or course of action" and to repeal the provisions authorizing class action suits under the act. Senate Bill 527 (May 4, 1977) authorizes a first lien on real estate for the sale or construction and sale of a residence and limits the interest on the lien to a 10 percent annual rate. Retail installment sales and charge agreements are regulated by Title 79, Revised Civil Statutes of Texas. Credit card sales are added by House Bill 1491 (June 16, 1977) to the retail transactions regulated by Title 79. The liability of creditors who charge excessive fees or interest or fail to perform certain duties in consumer credit transactions is limited by Senate Bill 932 (August 31, 1977).

Common Carriers

Under the provisions of Senate Bill 526, the railroad commission's jurisdiction over motor carriers, contract carriers, and specialized motor carriers does not extend to a situation in which a person is furnished equipment and drivers by two separate persons for use in a business that does not focus primarily on transportation and that is outside the commission's jurisdiction over carriers. In order for the exemption from jurisdiction to apply, the lessor of the equipment must be in the business of leasing motor vehicle equipment without drivers to the general public, the lease agreement must extend at least seven days, and the lessee must direct, supervise, and control the drivers and the use of the equipment.

The railroad commission is allowed by House Bill 1026 (June 16, 1977) to permit specialized motor carriers that haul Cornish hens, commercial broilers, or other specialized commodities to commence new operations or services under certain circumstances without first obtaining the commission's approval of the rates, fares, and charges for the operation or service.

Intrastate air carriers may limit their liability for damage or loss of freight or baggage under Senate Bill 38 (March 29, 1977) by filing a limiting tariff with the aeronautics commission before the claimed loss or damage.

Safety

The 65th Legislature passed two bills relating to safety. The fireworks safety law is amended by House Bill 949 (September 1, 1977) to prohibit the sale or igniting of bottle or sky rockets in any county having a population of more than 1,700,000. Currently, only Harris County is affected by the law. The annual license fee for retailers who possess and sell fireworks is increased from \$2 to \$10 by Senate Bill 952 (June 15, 1977). The bill also increases the fee for a public display of fireworks from \$5 to \$17.50.

MENTAL HEALTH AND MENTAL RETARDATION

In line with recent court decisions and a nationwide trend to recognize the rights of mentally retarded persons, the 65th Legislature extensively revised state law in this area. The major legislation is Senate Bill 700 (January 1, 1978), which repeals the existing Mentally Retarded Persons Act and reflects a greatly enlightened view of the potential and rights of the retarded. The legislature's concern for the state's mentally retarded citizens is also exemplified by the passage of House Concurrent Resolution 93, which proclaimed March 22, 1977, as "Liberty and Justice for All Rally Day" and encouraged Texans to recognize the rights of the mentally retarded and to take affirmative steps to assure that constitutional promises of liberty and justice apply equally to them.

Senate Bill 700 (January 1, 1978), the Mentally Retarded Persons Act of 1977, is a comprehensive law repealing the existing Mentally Retarded Persons Act and enacting new law that reflects the rights of mentally retarded persons and changed attitudes about the care, training, and treatment of mentally retarded persons. The statute provides a continuum of services for mentally retarded persons, basic due process protections in the decision-making process for placement, treatment, and discharge of mentally retarded persons, and publicly supported educational services to the mentally retarded. Another act of major significance is Senate Bill 699, which provides for a limited guardianship of the person or estate, or both, of a mentally retarded person without a finding of incompetency. This is to protect the rights and property of the mentally retarded person while encouraging the development of maximum self-reliance and independence. The person retains all legal and civil rights except those which have by court order been designated legal disabilities by virtue of having been specifically

granted to the limited guardian.

In the area of mental health, the law pertaining to the calculation of the time a mental health patient may be detained without a court order is amended by Senate Bill 183 to allow detention that begins on a weekend or legal holiday to be extended until a regular business day. The act also authorizes a magistrate to issue a warrant ordering a peace officer to take a person into custody if a licensed physician has stated in writing that the person is a danger to himself or society. House Bill 720 authorizes the head of a state mental hospital to discharge a resident patient if the patient has been absent without authority for a continuous period of 18 months. Senate Bill 182 amends the Texas Mental Health Code by deleting the requirement that a peace officer or health officer state in writing that a person taken into custody under a warrant issued by a magistrate is mentally ill and therefore likely to cause injury to himself or others.

Senate Bill 918 (June 16, 1977) extends the per capita allocation for public education from the state available fund to wards of the Texas Youth Council and to handicapped persons under the care and control of the Texas Department of Mental Health and Mental Retardation. The act provides for the education of school-age persons in facilities of these two agencies through programs equivalent to those provided similarly handicapped students in the public schools.

Patient-student workers who are clients of a Mental Health and Mental Retardation care facility are allowed by Senate Bill 484 (May 11, 1977) to be paid wages commensurate with their productive capacities for work performed when the institution derives an economic benefit from the services. These workers were previously required to be paid the minimum wage under the Fair Labor Standards Act, but a 1976 U.S. Supreme Court decision held that inclusion of state and federal employees under that act is unconstitutional. This statute updates Texas practices in line with the supreme court decision.

Under House Bill 880, parents are not responsible for the expense of hospitalization of adult children (18 years of age or older) in state mental hospitals. Prior law required parental support if they were able to provide it, regardless of the age of the child. Senate Bill 658 (June 15, 1977) authorizes the Texas Department of Mental Health and Mental Retardation to charge fees to cover the actual cost for providing genetic counseling services.

The required number of meetings the Texas Board of Mental Health and Mental Retardation must hold during a year is changed by Senate Bill 285 (May 20, 1977) from six to four.

HEALTH AND HOSPITALS

Health

The 65th Legislature was successful in passing some very important legislation in the area of public health, as evidenced by House Bill 1574, which makes it lawful to manufacture and sell laetrile when done in accordance with the Texas Food, Drug, and Cosmetic Act. The bill authorizes physicians to prescribe laetrile for cancer treatment, and forbids hospitals or health care facilities to restrict the use of laetrile when prescribed by a licensed physician unless the substance as used or prescribed has been found to be harmful by the Texas Board of Health Resources after conducting a hearing. Physicians prescribing laetrile are required to keep certain records of their purchases and prescriptions of the substance.

Another significant measure adopted this session is Senate Bill 762, which authorizes certain measures to increase the protection of drinking water supplies. The local health officer of the Texas Department of Health Resources must approve any privy constructed within 75 feet of a drinking water supply. The Texas Board of Health Resources is authorized to establish standards, procedures, and rules for the management of health protective measures, and the act includes penalties for violating the rules and standards.

The name of the Texas Department of Health Resources is changed by Senate Bill 894 to the Texas Department of Health. The title of the Director of Health Resources is also changed by the act to Commissioner of Health. Senate Bill 1300 transfers all land, buildings, facilities, equipment, and property of the East Texas Chest Hospital from the control of the Texas Board of Health Resources to the board of regents of The University of Texas System. The hospital is authorized to be a teaching hospital but will also continue to function as a state tuberculosis hospital. House Bill 1846 (January 1, 1978) authorizes several changes in fees charged by the Texas Department of Health Resources for file searches, issuing certified copies of records, delayed birth certificates, or new birth certificates based on adoption, and for filing new birth certificates based on legitimation or paternity determination.

Under Senate Bill 821, the state will bear the cost of an autopsy performed on any child under the age of two years who dies suddenly of unknown cause. The bill is designed to determine the frequency and cause of Sudden Infant Death Syndrome. The Texas Department of Health Resources will direct a program of consultation and public education about this type of death. A new program for screening and testing newborn infants for hypothyroidism is established by Senate Bill 676. The Texas Department of Health Resources will

provide a diagnostic laboratory for conducting screening and will invite physicians and hospitals throughout the state to participate in the program.

Another new program is established by Senate Bill 120 to assist persons afflicted with hemophilia who are unable to pay the costs of continuing treatment with blood, blood derivatives, and pharmaceutical products. It will be administered by the Texas Department of Health Resources with the assistance of an advisory committee.

A justice of the peace or medical examiner is authorized by House Bill 307 (March 10, 1977) to permit the removal of corneal tissue if the decedent died under circumstances requiring an inquest if there is a request from an eye bank for corneal tissue, if there is no objection by the decedent's relatives of which the justice of the peace is cognizant, and if the removal does not alter the post mortem facial appearance. The statute lists persons who may object to the removal of corneal tissue from deceased relatives and provides immunity from certain civil suits for the justice of the peace, eye bank official, and medical examiner. Persons who remove corneal tissue for anatomical donations are required to have certain training under the provisions of House Bill 308 (March 10, 1977). The bill amends the Texas Anatomical Gift Act to include eye banks as legal donees of anatomical gifts.

The Texas Anatomical Gift Act is also amended by Senate Bill 94 (April 25, 1977), which adds two professors from each chiropractic school to the state anatomical board. Chiropractic colleges are also made eligible by the bill to receive cadavers distributed by the anatomical board and donations of bodies through the anatomical gift act.

House Bill 769 (May 13, 1977) removes leprosy from the diseases listed in the health rule concerning dangerous, contagious diseases (Rule 13, Article 4477, Vernon's Texas Civil Statutes). The act also changes the terminology in the health rule concerning contagious diseases (Rule 3, Article 4477, Vernon's Texas Civil Statutes) by substituting the name "Hansen's disease" for the term "leprosy."

The governing body of an incorporated home-rule city located wholly or partly in a county of 500,000 or more under provisions of House Bill 344 may, by resolution, take possession and control of a cemetery that is within its boundaries and threatens the health, safety, or welfare of its citizens. The resolution must specify that 60 days after giving notice the city will make improvements and maintain the cemetery.

The labeling requirements for prescription drugs are changed by

Senate Bill 888 to the extent that the name and business address of the drug distributor does not have to appear on the container if the distributor acts only as a wholesaler and does not repackage the drug or in any way modify the contents of the container.

House Bill 1309 (June 15, 1977) requires that a bill from a physician, dentist, podiatrist, chiropractor, or veterinarian disclose the name and address of a laboratory which has done laboratory tests and the amount paid to that laboratory for tests included in the bill.

The date on which school personnel must offer a certificate signed by a physician showing an examination for tuberculosis infection is changed by Senate Bill 726 from September 1 to the first day of the school year.

Alcoholism and Drug Abuse

A voluntary licensing program for health care facilities that treat alcoholics is established by House Bill 321 (September 1, 1977). The Texas Commission on Alcoholism will establish inspection and licensing procedures for participating health care facilities.

Senate Bill 620 (June 15, 1977) authorizes a municipal court judge to rcommit a person charged with a misdemeanor to a treatment facility approved by the Texas Commission on Alcoholism for alcoholic detoxification or treatment if the misdemeanor results from chronic use of alcohol. A commitment authorized by this act is in lieu of a sentence or a fine.

Under Senate Bill 101 (June 16, 1977), the executive director of the Texas Department of Community Affairs may establish accreditation standards for drug abuse treatment programs and program personnel that comply with standards required by federal law. Under this act, drug abuse treatment programs can be certified by the state as meeting federal accreditation standards.

Hospitals

Under present law, membership in cooperative associations that serve health care facilities is limited to tax-exempt institutions, and cooperative services are limited to cooperative members. Senate Bill 900 (June 15, 1977) allows cooperatives to join together to provide services such as laundry, heating, and cooling for health care facilities and to service noncooperative members such as medical center institutions that contract for service rather than become full members of the cooperative.

By requiring state agencies to coordinate inspections and accreditation procedures, House Bill 2115 will prevent the

duplication of procedures involved in certifying, surveying, inspecting, and investigating health care facilities when several state agencies have such responsibilities with the same facility.

Senate Bill 416 prohibits job discrimination against persons employed by health care facilities because of their attitudes concerning abortion and states that private health care facilities are not required to accommodate abortions unless the life of the mother is in immediate danger.

The majority of legislation in this area relates to individual hospital districts. The 65th Legislature authorized the creation of nine new hospital districts: Reagan County--House Bill 876 (March 24, 1977); Montgomery County--House Bill 1604 (May 26, 1977); Refugio County Memorial--Senate Bill 359 (February 24, 1977); Shackelford County--Senate Bill 552 (May 13, 1977); Midland County--Senate Bill 1210 (May 4, 1977); Angelina County--House Bill 1023; Wilson County Memorial--Senate Bill 1188; Burleson County--House Bill 2243; and Kleberg County--Senate Bill 1311.

Several bills amend existing hospital district statutes to give the districts new powers. House Bill 927 (May 26, 1977) grants the West Coke County Hospital District expanded authority to acquire or build hospital facilities. East Coke County Hospital District is empowered to enter into contract with doctors, certain professional associations, and certain nonprofit corporations by House Bill 928 (May 26, 1977). The ability of Nacogdoches County Hospital District to lease property owned by the district is expanded to include property other than buildings and facilities by House Bill 1029 (May 13, 1977). Senate Bill 1271 (June 15, 1977) gives Walker County Hospital District the power to lease its hospital facilities, to delegate to the lessee the management of the leased facilities, and to contract with the lessee for the provision of hospital care to the needy inhabitants of the district. The board of directors of the Hood County Hospital District is authorized by House Bill 533 (May 13, 1977) to sell and dispose of real or personal property owned by it which is found to be in excess of that needed for its present and future needs.

The provisions of existing statutes relating to the terms, qualifications, and elections of directors of hospital districts are amended by Senate Bill 1271 (June 15, 1977), Senate Bill 139 (March 17, 1977), Senate Bill 1199 (June 15, 1977), Senate Bill 713 (June 15, 1977), and House Bill 2173 (June 15, 1977).

House Bill 95 (February 23, 1977) grants the commissioners court of a county the authority to close a county medical facility unless a petition is filed requesting an election to determine whether the facility should be closed and the voters decide in the resulting election against closing the facility.

The statute authorizing the creation of the Mabank-Kemp Hospital District is amended by House Bill 2182 to change the name of the district to the Cedar Creek Hospital District, increase the territory included in the district, increase the number of directors, and provide that a majority of the voters in the entire district is required to approve the district rather than a majority in each of the parts of three counties which would be included in the district.

Senate Bill 1180 (May 30, 1977) validates the creation, organization, and elections of certain hospital districts, the appointment or election of directors for those districts, certain actions and proceedings taken by the directors, and the bonds issued by any hospital district.

The conditions under which a hospital authority may lease a hospital facility that it owns are specified by Senate Bill 1211. The bill also gives a hospital authority the power to delegate to the lessee the duty to establish policies and procedures under which the hospital may be operated.

Senate Bill 1306 (June 15, 1977) authorizes a city hospital authority to sell any of its property to another political subdivision of the state for fair market value if, after notice of the sale is published, no petition is filed requesting an election on the proposed sale or if the requested election shows the majority of the voters to be in favor of the sale.

HANDICAPPED PERSONS

The handicapped citizens of the State of Texas were greatly benefitted by the actions of the 65th Legislature. Two of the major accomplishments of this session with regard to handicapped citizens are Senate Bill 836, which relates to the rights of the handicapped, and Senate Bill 773, which concerns architectural barriers that prevent the handicapped from gaining easy access to public buildings.

Article 4419e, Vernon's Texas Civil Statutes, which guarantees the rights of the handicapped, is amended by Senate Bill 836 to extend the guarantees of the law to the visually handicapped, as well as to the blind and the otherwise physically handicapped. The bill also makes employment of the handicapped by the state and political subdivisions of the state the public policy of the State of Texas. In addition, landlords are prohibited from discriminating against the handicapped in housing, and every totally or partially blind person who has a guide dog is entitled to equal access to housing without having to pay additional compensation for the guide dog.

Privately financed buildings which are open to public use for education, transportation, employment, or acquisition of goods and services are required by Senate Bill 773 to be free from architectural barriers to the handicapped. Included under the jurisdiction of the bill are shopping centers, transportation terminals, theaters, hospitals, and large professional office buildings which are located in counties with a population of 50,000 or more and which are constructed after January 1, 1978.

Handicapped drivers or passengers of vehicles equipped with displayed special devices are exempted by House Bill 641 from payment of the fees or penalties imposed for parking at a meter or in a limited-time space.

House Bill 1448 allows the Texas Department of Corrections to contract with government agencies, private schools, and visually handicapped individuals for the purpose of manufacturing Braille textbooks and other instructional aids for the education of blind or visually handicapped persons.

The Texas State Technical Institute is required by House Bill 1242 to provide interpreters with Comprehensive Skills Certificates and to furnish equipment and materials necessary for the education of deaf students at the school.

House Bill 1880 creates the joint advisory Committee on Educational Services to the Deaf. The committee, which is comprised of various public officials and private individuals, will evaluate the organization and method of operation of the various departments and agencies of state government related to educational programs for the deaf and will propose methods for improving the structure and administration of these departments and agencies for consideration by the 66th Legislature. Unless extended by that legislature, the committee will expire on May 31, 1979.

INSURANCE

During the 65th Legislature, Regular Session, a number of important pieces of legislation were adopted concerning insurance companies, insurance agents, and various types of insurance coverage.

Insurance Companies

Investments of domestic life insurance companies are regulated under the provisions of Article 3.39 of the Insurance Code. In Senate Bill 77 the legislature has expanded investment opportunities for these companies by allowing investment of their funds in bonds, bills of exchange, or other commercial notes or bills of solvent corporations that meet certain requirements as to

indebtedness, net worth, and default on previous debt, as well as investment in debentures of public utilities that meet certain criteria. Senate Bill 1158 amends Article 3.34, Insurance Code, which defines "Texas Securities," to alter the criteria applicable for corporate first mortgage bonds and debentures to qualify as "Texas Securities," to place stocks of banks and bank holding companies, debt obligations, and bank deposits of certain corporations under the definition of "Texas Securities," and to provide a method for the valuation of "Texas Securities."

Under the present law, domestic life insurance companies are authorized to invest in production payments in certain minerals as a part of their general authority to secure, hold, and convey real property. Senate Bill 78 expands this authorization so that these insurance companies may also invest in producing royalties and producing overriding royalties in certain minerals.

Senate Bill 688 (May 11, 1977) amends the Insurance Holding Company System Regulatory Act to make various changes in the requirements for registration, acquisition of domestic insurers, investment in or loans to subsidiaries, valuation of noninsurer subsidiaries, and revocation or rescission of certain transactions.

Article 21.25, Insurance Code, provides for the merger and consolidation of stock insurers, and Article 21.26 sets forth conditions for the purchase of all or part of the shares of one life insurance company by another life insurance company. In Senate Bill 689 (May 4, 1977) the legislature amended those two sections of the Insurance Code to make them consistent with provisions of the Texas Insurance Holding Company System Regulatory Act relating to acquisition of control.

Dividend payments of insurance companies organized under Texas law are limited to payments from surplus profits arising from their business. Because of confusion as to the exact meaning of surplus profits, the legislature passed Senate Bill 1171 to define "earned surplus" and "surplus profits" so that the legality of dividend payments may be more easily determined.

Senate Bill 877 amends the Texas Property and Casualty Insurance Guaranty Act to prohibit those participating in the property and casualty guaranty association to advertise that their policies are protected under the property and casualty guaranty law and to make such advertising a violation of the provisions of the Insurance Code relating to unfair competition and unfair practices.

Currently, state and federally chartered banks are having difficulty obtaining protection against losses resulting from dishonest and criminal acts of employees and from losses resulting from robbery. To remedy this situation, the legislature enacted

House Bill 1886 (June 15, 1977), that will allow these banks, through a group or association, to establish self-insurance plans managed by professional consultants and supervised by the State Board of Insurance.

Under Article 21.48 of the Insurance Code, certain practices relating to mortgage lenders and the insurance of real property are regulated. Senate Bill 583 broadens the group of lenders and borrowers covered by the law and expands its coverage to personal as well as real property. Also, the bill adds certain practices to lists of both prohibited and not prohibited practices and makes changes in the enforcement provisions.

Insurance Agents

Corporations were prohibited from being licensed as agents to solicit, sell, or place life insurance in this state, and no life insurance company may transact business if it is bound by a contract with another corporation to allow the other corporation to receive any portion of the premium or income of the life insurance company. Under House Bill 712, corporations can be licensed as agents under Article 21.07 or 21.07-1 of the Insurance Code on meeting certain conditions set forth in the bill. Persons seeking to obtain temporary and permanent licenses as life insurance agents under Article 21.07-1 of the Insurance Code were not required to complete any educational program.

Under House Bill 704, applicants for life insurance agent's licenses and temporary life insurance agent's licenses will have to complete at least 40 hours of approved training, and at least 70 percent of an insurer's applicants for temporary license during any fiscal year will have to take the examination for a permanent license.

The insurance commissioner is directed by law to establish rules and regulations for examinations administered to agents of legal reserve life insurance companies and may appoint an advisory committee to make recommendations to him regarding preparation and administration of these examinations. In House Bill 2015 the insurance commissioner is required to appoint the advisory board and to make his appointments according to certain criteria for board composition, and the advisory board is required to make recommendations to the commissioner at least every four years.

Licenses for various types of insurance agents in Texas were issued for one year. House Bill 705 amends the various insurance agents licensing laws to increase the license period to two years. House Bill 706 amends the various insurance agent licensing statutes to increase fees for application, examination, appointment, and renewal. The bill also provides for return of the examination fee

under certain circumstances.

Under state law, the State Board of Insurance may issue an emergency license to an applicant for a local recording agent's license for a period of 90 days in any 12-month period if a local recording agent dies, is disabled, or is unable to pay premiums coming into his possession. Senate Bill 940 will allow the board, at its option, to extend that emergency license for an additional period up to 90 days.

A corporation may be licensed as a local recording agent under Article 21.14 of the Insurance Code on meeting certain prerequisites, one of which is the ability to pay any amount up to \$25,000 for which it might become legally liable because of a negligent act, error, or omission of the corporation or a person acting for the corporation. This ability to pay may be evidenced by an errors and omissions insurance policy insuring the corporation in an amount of at least \$50,000 with not more than a \$2,500 deductible. Senate Bill 852 increases the required amount of the errors and omissions policy to at least \$100,000 with a maximum deductible of not more than \$5,000.

Motor Vehicle Insurance

The present law authorizes the State Board of Insurance to approve motor vehicle insurance rates for a particular risk that are greater than the board's promulgated rates, provided that the proposed insured is given notice that the rates are greater and consents to the rates. Subsequent notice and consent are unnecessary for renewal of the policy if the information relating to the rates being greater is stamped on the policy form. Senate Bill 1101 amends this statute to remove the requirement of formal notice to and written consent by the insured and merely requires that the information be printed on the policy form in prominent type size.

Senate Bill 1256 amends the uninsured motorist statute to provide that coverage be offered in amounts not less than those provided under the safety-responsibility statute, that coverage be extended to include both personal injury and property damage, that underinsured motorist coverage be provided, that an insured be entitled to obtain coverage above minimum limits up to the amounts of his motor vehicle liability insurance coverage, that certain limitations on recovery be included in the policies, that an insured may recover under the coverage with the lower deductible amount, and that the insurer has the burden of proof of showing that a motor vehicle is uninsured.

Under present law, the seller under a retail installment contract may require the buyer to insure purchased tangible personal

property and include the insurance cost as a separate charge. Senate Bill 1297 (June 15, 1977) amends this law to authorize certain types of motor vehicle insurance to be included as a separate charge in a contract for the sale of a motor vehicle.

Certain insurance premium reductions are available to persons who complete approved driver education courses. House Bill 1232 amends the law relating to applications for drivers' licenses to provide that the applications reflect whether the applicant has completed an approved driver education course. This will provide an official record of the information that will make it easier for insurers to determine who is eligible for premium reductions.

Life, Health, and Accident Insurance

House Bill 1849 amends the Standard Non-forfeiture Law, which is applicable to certain individual life insurance policies, to provide another method for and simplifying methods of calculating the adjusted premiums of life policies, to change interest rate limitations in calculating cash surrender values and paid-up nonforfeiture benefits on certain policies, and to change the method for calculating adjusted premiums and present values on certain policies covering female risks.

House Bill 1852 enacts standard nonforfeiture law for individual annuities which prescribes the method for the computation of nonforfeiture law for individual annuities which prescribes the method for the computation of nonforfeiture benefits and cash surrender values for individual deferred annuities.

In Article 3.50, Insurance Code, a number of groups are enumerated to which group life insurance policies may be delivered. House Bill 1177 adds an additional classification to this list of groups to allow delivery of group life insurance policies to groups that are substantially similar to those groups enumerated in the other classifications at the discretion of the commissioner of insurance. The provisions of the Insurance Code regulating group hospital service corporations was adopted in 1951. Since that time a number of those provisions no longer provide effective regulation of the corporations; therefore, the legislature enacted House Bill 1384 (November 1, 1977), which substantially rewrites Chapter 20 of the Insurance Code and provides for more effective regulation of the corporations.

In House Bill 2183, the list of groups to which group life insurance policies may be issued has been expanded to include nonprofit service, civic, community, and fraternal organizations in existence for at least two years that have a constitution and bylaws and that were formed for purposes other than for insurance coverage. The bill also includes certain requirements that must be

net in providing coverage to these groups.

If a person's group insurance or group hospital plan provides for services or partial or total reimbursement for services that are within the scope of practice of a licensed psychologist, the insured will be entitled under House Bill 360 to obtain those services, or receive reimbursement for those services, regardless of whether they are rendered by a licensed physician or a licensed psychologist.

A number of health insurance policies provide benefits to be paid for services that may be rendered by licensed podiatrists, but these policies do not provide for benefits to be made available if a podiatrist's services are used. Senate Bill 190 amends the Insurance Code to provide that if benefits made available by a health insurance policy fall into the scope of practice of a podiatrist then the insured may use the services of a podiatrist and benefits will be made available for these services.

Senate Bill 1137 (June 15, 1977) amends the law relating to standardization, readability, and simplification of terms and coverages of accident and sickness insurance policies by extending its applicability to policies delivered as well as those issued for delivery in this state.

The Standard Valuation Law, which provides for the valuation of services for outstanding life insurance policies and annuity and pure endowment contracts issued by life insurance companies, is amended by House Bill 1850 to make various changes in standards.

House Bill 1722 amends the provisions of the Insurance Code relating to misrepresentation in policy terms and discrimination to delete the language prohibiting discrimination between certain insureds, to prohibit issuing or circulating information on insurance that includes misrepresentations, and to establish new penalties.

Miscellaneous

The present law covering casualty insurance and fidelity, guaranty, and surety bonds provides a method for filing and approval of rates. Senate Bill 735 (May 4, 1977) amends these rating laws to allow the use of a rate that is greater than an approved rate for a specific risk on application of the insured and approval of the State Board of Insurance.

The Texas Property and Casualty Insurance Guaranty Act was enacted to provide for rehabilitation and conservation of certain insurers that are in financial difficulty. Under House Bill 1921, this act is amended to make some organizational changes in the property and

guaranty association and to make some clarifications and needed changes in the law.

Aircraft insurance is not presently under the regulatory control of the State Board of Insurance. House Bill 937 adds Subchapter K to Chapter 5 of the Insurance Code to allow the State Board of Insurance to prescribe policy forms and endorsements for aircraft insurance and authorizes the board to make necessary rules to carry out its authority. Also, contracts or agreements not written into applications for and policy of aircraft insurance are void and constitute sufficient cause for revocation of the insurer's license to write aircraft insurance in this state.

The legislature has provided in the past a comprehensive program of regulation over the sale, servicing, installation, and maintenance of fire detection and alarm devices and systems under the control of the State Board of Insurance and the state fire marshal. Senate Bill 951 amends this law to allow the state fire marshal to conduct hearings on the suspension, revocation, and refusal of issuance or renewal of certificates of registration and on approvals of testing laboratories. The statutes relating to designation of a person by the state fire marshal to investigate particular fires and relating to the availability of fire investigation results are amended by Senate Bill 1260 to remove the requirement that a person or entity requesting the investigation of a fire bear the expense of the investigation and to provide a scheme by which the state fire marshal and other official persons may obtain certain fire investigation information from insurance companies.

Malpractice Insurance

The problem that physicians and other health care providers have in obtaining malpractice insurance and obtaining it at a reasonable rate has been a major problem for the legislature to solve during the last two sessions.

The 65th Legislature's major response to the medical malpractice problem is House Bill 1048 which includes the following general changes in the laws relating to recovery of damages for malpractice, the availability of insurance, and the discipline of physicians:

(1) A new provision is adopted that provides additional authority to the Texas State Board of Medical Examiners to obtain information and to discipline a physician whose competency to practice is questioned or who is subject to discipline for some other action.

(2) Another new provision creates district review committees in various parts of the state to assist the Texas State Board of Medical Examiners in carrying out its powers and duties.

(3) Any person desiring to assert a malpractice claim against a health care provider must first give at least 60 days' notice of the claim to the person against whom the claim is made before suit on the claim may be filed.

(4) Pleadings in malpractice suits will no longer specify the amount of damages claimed.

(5) Detailed procedures are provided for the purpose of assuring that physicians will adequately inform patients of dangers and risks involved in a medical or surgical procedure before it is performed.

(6) The application of the common law doctrine of res ipsa loquitur is limited to the same types of cases as those to which it was applied by the appellate courts of the state on the effective date of House Bill 1048.

(7) If the State Bar of Texas fails to certify to the Supreme Court of Texas by January 31, 1979, that it has adopted rules governing bad faith claims filed by attorneys, a cause of action is created in which up to \$100,000 may be recovered from a claimant or defendant or a claimant's or defendant's attorney or both because a malpractice suit was filed in bad faith in a court of this state.

(8) Advance payments made by a physician or health care provider to a claimant for his claim are not an admission of liability on the part of a physician or health care provider and may not be admitted at the trial proceedings until a final award of damages is made, at which time they may be used to reduce the amount of the final award.

(9) The coverage of the statutes of limitations for health care liability claims is expanded to cover a broader group of providers than the previous statute and sets the limitations period at two years from the occurrence of the breach or tort or from the date of the treatment or hospitalization. Minors under 12 years have until their 14th birthday to file a claim.

(10) In a malpractice suit, civil liability for damages is limited to an amount not to exceed \$500,000 exclusive of damages awarded on the claim for expenses of necessary medical, hospital, and custodial care received before judgment or required for future treatment of the injury. This limit does not apply to cases in which a party may invoke the "Stowers Doctrine." Should the limitation be declared unconstitutional, then the limitation on damages for noneconomic losses will be limited to \$150,000. The consumer price index will be used to raise and lower the limits to reflect changes in the nation's economy.

(11) Malpractice claims are exempt from the provisions of the Deceptive Trade Practices-Consumer Protection Act.

(12) Agreements, promises, contracts, and warranties of cure relating to medical care and its results must be in writing to be enforceable.

(13) The exemption from liability for persons administering emergency medical care is expanded.

(14) New provisions are adopted relating to the regulation of professional liability insurance.

(15) Insurers must institute accident prevention programs for hospitals in order to write professional liability insurance for hospitals in this state.

(16) The joint underwriting association for medical liability insurance is continued until not later than December 31, 1979, and its coverage is expanded to a broader range of health care providers. A new method of assessing policyholders' surcharges is also included.

(17) Self-insurance trusts are authorized to be set up by physicians and dentists.

(18) House Bill 1048 is to expire on August 31, 1993.

The cost of malpractice insurance has become extremely high for insuring the staff and students of some state university health care programs, so the legislature adopted Senate Bill 391 (March 10, 1977) which will allow the board of regents of The University of Texas System and Texas A & M University System to self-insure for malpractice claims arising against staff and students of their health care programs. House Bill 87 (April 13, 1977) amends the law creating the medical liability joint underwriting association to expand coverage of the association to certain radiation therapy centers, blood banks, and nonprofit corporations organized for delivery of health care.

WORKERS' COMPENSATION

There were many significant bills enacted by the 65th Legislature dealing with workers' compensation. Most of the legislation was enacted for the purpose of benefitting the workers who are eligible for compensation or making the administration of the law more fair to the employer and insurer while at the same time providing benefits to the worker.

House Bill 455 requires that the term "workers' compensation" be used instead of the traditional "workmen's compensation" and requires that state agencies change their forms and publications accordingly.

Under House Bill 1046, Texas A & M University is allowed to obtain and record the medical histories of persons in the employ of the university for purposes of workers' compensation. In addition, it allows the university to require persons with preexisting medical conditions which could result in the payment of compensation to execute a waiver of coverage for that condition.

Workers' compensation insurance carriers become liable under provision of House Bill 1792 for repair or replacement of artificial appliances furnished as a compensation benefit if a physician determines that the repair or replacement is necessary. The insurer is not liable if repair or replacement is necessary because of lack of care by the employee.

House Bill 1793 (September 1, 1977) requires a workers' compensation insurer to give notice by certified mail to an employer whose policy is cancelled prior to the expiration date. If the insurer fails to give the required notice, the policy is extended. The notice of cancellation must also be given to the Industrial Accident Board.

The settlement of an appeal of a workers' compensation case without a hearing is provided for by House Bill 1840 if the claimant acknowledges to the court his agreement to the settlement and an understanding of its terms. Although current law is not explicit, many courts feel that a settlement may be approved only after a court hearing. Senate Bill 7 entitles a workers' compensation claimant who is forced to get a court order in order to receive payment of a judgement against the state or a department, division, or political subdivision to also receive judgement for a 12 percent penalty and attorney's fees.

Senate Bill 135 increases the gross premiums tax on insurers writing workers' compensation insurance and eliminates the subscriber's fee paid by an employer who elects to become subject to the workers' compensation law. The bill also eliminates the special fund into which the gross premiums tax is paid and requires that the tax be paid into the general revenue fund.

Several changes are made extending coverage under the workers' compensation program. Senate Bill 191 (March 30, 1977) includes the services of doctors of podiatric medicine within the benefits of the system. Senate Bill 252 (September 1, 1977) repeals the separate workers' compensation system for Texas Tech University employees and includes them within the general plan for state

employees. Under Senate Bill 429 (June 15, 1977), coverage of Texas workers' compensation expands to include employees who are recruited in the state even though the injury on which the claim is based occurs outside the state. The law had extended this coverage only to employees who were actually hired in this state. Workers' compensation benefits for employees of political subdivisions are extended under Senate Bill 133 to elected officials and certain other employees if that coverage is approved by majority vote of the governing body of the political subdivision.

Senate Bill 508 amends the definition of "employee" for purposes of workers' compensation for state employees. Specifically excluded are independent contractors, volunteers, members of the state military forces, persons performing services for political subdivisions of the state or federal government, persons who are controlled by an agency other than the state, employees of the highway department, and employees of The University of Texas System and of the Texas A & M University System. Many of those excluded are entitled to benefits under other laws.

Senate Bill 465 gives the Industrial Accident Board the power to direct the attorney or authorized agent of a party to a controverted claim for compensation to appear before the board. Senate Bill 271 expands the venue for suits brought to set aside decisions of the Industrial Accident Board. Under preexisting law, the suit could be brought only in the county where the injury occurred. This bill allows the suit to be brought in the county where the employee resided at the time of injury or, if the employee is deceased, in the county where the employee resided at the time of his death.

Senate Bill 744 (May 25, 1977) appropriates \$1.7 million to the attorney general for payment of compensation claims of state employees. Under Senate Bill 858, existing law is clarified by providing that for each cumulative \$10 increase in the average weekly wages, the maximum benefit increases cumulatively by \$7.

Several provisions of the workers' compensation law are amended by Senate Bill 1275. It reinstitutes the second-injury provisions under which an employer is liable only for the compensation due the claimant because of a second injury where an employee suffers two injuries, the second of which is the same injury that the employee previously suffered and received compensation for. Also, the bill closes the claim file records of employees who have filed claims except to certain parties to the claim. The purpose of closing the records is to prevent individuals or groups from publishing blacklists of employees who have claim histories. A penalty for engaging in blacklisting is included in this bill. It also provides for attorney general investigation and prosecution of persons involved in fraudulent compensation claims.

Senate Bill 479 provides that when an employee of a political subdivision has his wages offset by workers' compensation benefits, both the employee and the employer must continue to pay into the employee's pension plan the amount of money by which his wages are offset. A pension benefit may not under any circumstances be reduced as a result of injuries or workers' compensation received.

Prior to this legislative session, the funeral allowance provided for a deceased employee's funeral expenses was limited to \$500. House Bill 565 (May 27, 1977) increases the maximum funeral allowance provided by workers' compensation to \$1,250. The bill also authorizes reimbursement not to exceed \$1,250 for anyone incurring burial costs of a deceased employee covered by workers' compensation.

WOMEN AND SEX DISCRIMINATION

The 65th Legislature passed two bills designed to alleviate the plight of "displaced homemakers," a matter of increasing national interest. A "displaced homemaker" is a person who has worked some years as a homemaker without pay and has experienced a loss of family income through divorce, death of spouse, or other circumstances. House Bill 444 (May 11, 1977) directs the commissioner of the Texas Rehabilitation Commission to establish two pilot multipurpose service centers for displaced homemakers, one to be located in the Dallas-Fort Worth metropolitan area and one in a county with a population of 100,000 or less. The centers are directed to provide job counseling, job training in association with public and private employers, and service programs, including health information services and information about money management. The authorization for the pilot service centers expires August 31, 1981.

House Bill 817 (May 17, 1977) requires the Texas Employment Commission to establish a special assistance job-counseling program for displaced homemakers, to be designed to assist displaced homemakers in obtaining training and education as well as to place displaced homemakers in suitable employment.

LABOR

Labor was directly affected in a variety of ways by the acts of the 65th Legislature. The most significant pieces of legislation are Senate Bill 867, allowing employees on strike to maintain their group insurance benefits, and Senate Bill 896, conforming the Texas Unemployment Compensation Act to federal requirements, thereby avoiding a possible loss of substantial federal funds.

Department of Labor and Standards

House Bill 760 (April 25, 1977) updates the law requiring an inspection of all boilers and pressure vessels. The main substantive changes are establishment of a board of boiler rules to advise the commissioner of labor and standards in the regulation of boilers and authorization for the department to conduct special inspections and to charge a fee for those inspections.

The Texas Mobile Home Standards Act is amended to conform to federal regulations by Senate Bill 305 (May 13, 1977). This bill includes lease-purchase agreements and mobile home brokers under the department of labor and standards regulation. In addition, it allows mobile home manufacturers, dealers, and salespersons to deposit other security instead of posting a bond as currently required.

There were two bills which dealt with changes in the boxing and wrestling laws in Texas. Senate Bill 643 (May 30, 1977) allows for the inclusion of a gate tax on closed-circuit telecasts of boxing and wrestling matches. The age 21 participation requirement and the prohibition of Sunday matches are eliminated. Under House Bill 2162, boxing and wrestling after noon on Sunday are legalized.

Senate Bill 883 exempts management search consultants from coverage under regulatory statutes applicable to private employment agencies. A management search consultant is a person who is retained by an employer to recommend individuals for consideration for an executive or professional position which is salaried at a rate of not less than \$20,000 a year.

Labor-Management Relations

Of major significance in this subject area is Senate Bill 867. This act provides that group life or accident and health insurance policies delivered to an employer who pays part of the premium under a collective-bargaining agreement must provide that in the event of cessation of work by covered employees as the result of a labor dispute, the policy shall continue in force as to all employees who continue to pay both their individual contribution and the contribution due from the employer.

Unemployment

Senate Bill 896 (part effective October 1, 1977, remainder January 1, 1978) makes various amendments to the Texas Unemployment Compensation Act with the purpose of conforming that act to new federal requirements. The major changes include: (1) increasing the maximum benefit from \$63 to \$84 per week and establishing an automatic increasing mechanism (effective October 1, 1977); (2) deducting from the amount of unemployment benefits received any amount received from a pension, retirement, or other periodic payment plan which is based on previous work (effective for weeks of unemployment beginning March 1, 1980); (3) requiring benefits to be paid promptly regardless of the pendency of a period to apply for reconsideration or appeal; (4) allowing benefits to be paid from federal funds on the basis of wages earned from political subdivisions, certain domestic service, agricultural labor, and nonprofit elementary schools; and (5) allowing governmental employers either to pay a state unemployment compensation tax (contribution method) or to reimburse the state fund for benefits paid that are attributable to their former employees (reimbursement method).

NATURAL RESOURCES AND ENERGY

A well-developed energy policy for the State of Texas is a continuing concern of this state and its citizens. The 65th Legislature enacted several bills dealing with oil and natural gas, coal, liquefied petroleum gas, and surface mining, as well as those agencies which will be responsible for many energy-related functions and decisions.

Energy Agencies

In Senate Bill 1172, the Energy Policy Planning Act of 1977, the legislature created the Texas Energy Advisory Council as the successor to the Governor's Energy Advisory Council. The lieutenant governor is the chairman and the speaker of the house is the vice-chairman. The council will be responsible for formulating state energy policy and carrying out other energy-related functions.

The Interagency Council on Natural Resources and the Environment was created under the Interagency Planning Council Act to provide an arena for the exchange of information and ideas between executive heads of certain state agencies involved in the area of natural resources and the environment. Senate Bill 576 creates the Natural Resources Council as the successor to the interagency council and sets forth its membership and functions.

In House Bill 1653 (May 13, 1977), the legislature ratified the Interstate Compact for the Conservation and Utilization of Natural Energy and Water Resources, which has as its purpose the cooperation between the states of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas in the conservation and use of energy and water resources in those states. House Bill 1799 (September 1, 1977) creates the energy development fund in the state treasury to provide funds for support of research and development of alternative energy sources.

Oil and Natural Gas

To prevent undue waste in the production and use of natural gas, the legislature has placed control over the prevention of waste under the jurisdiction of the Railroad Commission of Texas. In the statutes relating to waste of natural gas, those activities that constitute waste are defined, and the commission is authorized to make necessary rules governing waste. House Bill 2254 amends these statutes to allow the commission to make exceptions to the limitations on the flaring of natural gas so that on a showing by an operator that flaring is necessary for well cleaning following stimulation and repairing gas gathering systems, the commission could authorize such flaring without having it constitute waste under the law.

The present law requires that interest on loans in excess of \$500,000 that are used for construction or improvements on real property be at the same rate as that charged to corporations. House Bill 1883 adds an analagous provision to the law that authorizes interest on loans in excess of \$500,000 used for the purpose of exploration or development of oil and gas properties and the reworking of oil or gas wells to be charged at the same rate as that charged to a corporation.

House Bill 2129 provides that no person, firm, corporation, partnership, association, or cooperative that sells natural gas for irrigation and also sells and distributes natural gas to or within a municipality may curtail the supply of natural gas for agricultural purposes including irrigation pumping and crop drying except to the extent the natural gas supplies are required to maintain natural gas service to residential users or hospitals or similar uses vital to public health and safety.

Present Texas law does not authorize the acquisition of natural gas storage facilities by the power of eminent domain. Senate Bill 801 authorizes gas utilities and others desiring to operate a storage facility for exclusive use by gas utilities to acquire by the power of eminent domain up to one-third of the outstanding mineral and royalty interests and necessary surface interests for operation of an underground storage facility. The railroad commission has

substantial authority to make certain findings before the power of eminent domain may be exercised and certain duties are placed on the storer in handling the facilities.

Coal

With increased interest in the use of coal as an alternative source of energy, a number of energy companies are making the transition to the use of coal but must obtain adequate and readily available supplies of coal. To aid in making supplies of coal more readily available, the legislature enacted Senate Bill 185 authorizing use of the power of eminent domain for the construction of coal slurry pipelines. Coal slurry pipelines are made common carriers under the common carrier laws relating to oil and gas pipelines and are to be regulated by the railroad commission.

Liquefied Petroleum Gas

The Liquefied Petroleum Gas Code provides a comprehensive scheme for the licensing of and provisions of bonds and certificates of insurance for dealers and shippers of liquefied petroleum gas (LPG) and manufacturers, dealers, and repairmen of LPG equipment under the jurisdiction of the railroad commission. The date for licensing does not coincide with the end of the state's fiscal year, and the law requires bonds and insurance certificates to be refilled annually, creating a situation that has become cumbersome. Senate Bill 1286 changes the relicensing date to coincide with the end of the state's fiscal year and allows for continuous bonds and insurance.

Surface Mining

In the adoption of the Texas Surface Mining and Reclamation Act by the 64th Legislature, certain administrative procedures were adopted that were in conflict with the Administrative Procedure and Texas Register Act adopted in the same session. Senate Bill 1250 amends the surface mining law to bring it into line with the APA. This act also extends the coverage of the surface mining law to in situ gasification of coal and lignite other than mining associated with the removal of uranium or uranium ore.

Recodification

As a part of the legislature's continuing nonsubstantive statutory revision program, Senate Bill 1207 adopts the Natural Resources Code, a recodification of the state's natural resources statutes which relate to such areas as public land, oil and gas, and surface mining. Although making no substantive change in the law, the code is a complete revision of the state's natural resources laws in modern English and a reorganization of these statutes in a more

logical, readable form.

PARKS AND WILDLIFE

During the 65th Legislature, a number of significant bills were enacted concerning hunting and fishing regulations, game laws, and county and state parks.

Administration

The Parks and Wildlife Department is authorized under House Bill 8 (May 26, 1977) to commission deputy game wardens with limited enforcement powers to assist in the enforcement of game and fish conservation laws. Senate Bill 286 (March 24, 1977) allows the Parks and Wildlife Department to charge fees for stocking privately owned water with fish.

Under Senate Bill 288 (May 24, 1977), the department is further authorized to sell state land under the control of the department if the Parks and Wildlife Commission finds that the land is not suitable for park, scientific, hatchery, or game management purposes for which the land was acquired, and requires the funds derived from sale to be deposited in the fund dedicated to the purpose for which the land was held or acquired. Senate Bill 432 allows the Parks and Wildlife Department to construct or contract with others for the construction of artificial reefs in coastal water of Texas and in federal water adjacent to state coastal water. The act also provides a penalty for persons who damage buoys placed in the water to mark artificial reefs.

Hunting and Fishing

The Parks and Wildlife Department is authorized by House Bill 292 (March 16, 1977) to donate confiscated game fish to charitable institutions, hospitals, or needy orphans and widows in the same manner as the department is authorized to dispose of confiscated game animals. The sale or attempted sale of raccoon, fox, and bobcat during the closed season is regulated by House Bill 669. Senate Bill 117 allows archery hunters to possess a shotgun at their camp if the shotgun is not used for taking game animals and if the hunter does not possess shotgun shell larger than No. 4 shot.

House Bill 293 (April 29, 1977) amends the Penal Code to make shooting on a public road a misdemeanor that can be tried in the justice courts for first offenses. General penalties for the possession and use of illegal nets and seines are provided by House Bill 700 (May 20, 1977), which also authorizes the confiscation of illegal nets and seines in inside coastal water. House Bill 1760

provides for the confiscation and disposition of illegal electricity-producing devices used in catching fish. Under Senate Bill 290 (May 24, 1977), a hunter is allowed to transport game animals lawfully killed to and from home, a taxidermist shop, or a tannery without filling out an affidavit. The affidavit is still required for shipments by common carrier. This act also permits authorized employees of the Parks and Wildlife Department to inspect taxidermist shops, tanneries, and cold storage facilities where suspected illegal game may be held. The department is permitted to seize and dispose of illegal pelts under Senate Bill 291 (March 30, 1977). Under Senate Bill 292, the use of individual bait-shrimp trawls is limited during the period from August 15 to December 15 to the major bays of inside water.

The turkey gobbler general law bag limit is reduced by Senate Bill 301 from three to two turkey gobblers. The issuance of turkey tags is authorized under Senate Bill 302 (September 1, 1977), and the bill also requires hunters to attach turkey tags to turkeys. Senate Bill 303 (September 1, 1977) amends the laws relating to the licensing and regulation of holders of raptors by providing for different classifications of licenses, altered fees for licenses, and greater regulatory authority of the Parks and Wildlife Department. Senate Bill 415 requires the manager of a shooting preserve (hunting lease) to make and keep records concerning the guests accommodated on the preserve and requires a report to the department.

Senate Bill 567 (September 1, 1977) prescribes a general law regulating the taking and selling of minnows and other bait fish. A large number of local and special minnow laws are repealed by the bill. The "red drum conservation act," Senate Bill 624 (September 1, 1977), is a comprehensive law regulating the commercial and sport taking of red drum in coastal water. In general, the act provides for temporary and retention limits until 1978, at which time general regulatory authority is given to the Parks and Wildlife Commission to provide seasonal catch limits for red drum. The act also creates a commercial red drum fishing license.

Hunting and Fishing Licenses

There are several changes in the laws governing hunting and fishing licenses. Two nonresident hunting licenses are created by House Bill 920, a small game license and a general license. A nonresident must possess the general license if hunting deer, turkey, elk, antelope, bear, javelina, and certain bighorn sheep. The small game license is valid for other small animals and for fowl, other than turkey. Senate Bill 289 (March 24, 1977) increases the resident exemption hunting license fee from 25 cents to \$1.25, with 25 cents going to the person issuing the license as a collection fee.

Unlike most surrounding states, Texas previously has made no distinction between the fees collected for resident and nonresident fishing licenses. Senate Bill 222 provides increased license fees for out-of-state applicants. Under this bill a resident fishing license will cost \$4.25 and a nonresident or alien license will cost the applicant \$10.25.

Certain groups are exempted from the license requirements under Senate Bill 23 and Senate Bill 25. Patients of certain hospitals who fish for therapeutic purposes are exempted from the fishing license requirement under Senate Bill 23 (April 13, 1977). Hunting and fishing license requirements for certain disabled veterans are exempted by Senate Bill 25.

House Bill 1399 provides that all hunting and fishing licenses expire on August 31 of each year. Under House Bill 975, the amount of the fee that may be charged for issuance of the fishing license is increased by 25 cents so that the new total fishing license fee is \$4.50.

Uniform Wildlife Regulation

The following counties were placed under the Uniform Wildlife Regulatory Act (UWRA) during the 65th Legislature: Rockwall County by House Bill 280 (April 29, 1977), San Augustine County by House Bill 1166, Winkler County by House Bill 1276 (May 4, 1977), Camp County by House Bill 2159, and Washington County by House Bill 2206. The special regulatory authority law for Kendall County is extended by House Bill 2219. The water area of San Jacinto County is included under the UWRA by House Bill 2187. Senate Bill 822 repeals the special limitations on the authority of the commission in setting seasons for counties in the trans-Pecos area. Deer in Grimes County are removed from the coverage of the Wildlife Act by House Bill 2153, and special deer laws are enacted for Grimes County.

Senate Bill 1067 (June 15, 1977) grants to the Parks and Wildlife Commission unlimited regulatory authority for coastal water if under the United States Fishery Conservation and Management Act of 1976. Federal law requires or attempts to preempt state laws on coastal fishery management, and authorizes the Parks and Wildlife Department to cooperate with the Gulf of Mexico Fishery Management Council.

Local Game Laws

House Bill 164 authorizes an open quail season in Chambers County from December 1 to February 15. Under House Bill 388 open season for quail from December 1 to January 31 in Cottle, King, and Dickens counties is provided. The taking of fish in the Nueces

River in Jim Wells, San Patricio, and Nueces counties is prohibited under House Bill 467.

House Bill 1194 creates a game sanctuary in the riverbeds of La Salle and McMullen counties and prohibits the possession or use of firearms in the sanctuary. Under House Bill 1195, extended open seasons for the taking of deer, javelina, turkey, and quail in La Salle County are provided. House Bill 1357 (May 20, 1977) adds Webb County to the list of counties in which predator animals may be hunted with aircraft. House Bill 1456 repeals the special law archery season for Blanco County and allows the archery season to be set under the Uniform Wildlife Regulatory Act. A special archery season to be prescribed by the Parks and Wildlife Commission for Trinity County is created by House Bill 1729. It will begin on October 1 and extend through October 31. House Bill 2209, applying to Upshur County only, authorizes a special 30-day deer season, sets a 10-squirrel per day and a 20-squirrel per season bag limit, changes penalties for game violation, and extends the quail season.

House Bill 2218 provides an October special archery season for deer only for Morris County. Under House Bill 2225, a conflict is resolved in the archery season law for Leon County and provides that the general law archery season applies in Leon County.

House Bill 2259 moves the beginning of the quail season in Jim Hogg County from December 1 to November 15. The taking of turkey in Shelby County is prohibited until September 1, 1982 under Senate Bill 28 (March 24, 1977). Senate Bill 96 (March 24, 1977) repeals a special bag limit for squirrel in Angelina County, allowing the general law limit of 10 per day to apply. Senate Bill 98 (April 5, 1977) repeals a local furbearing animal season for Cherokee County. Under Senate Bill 1291 (June 15, 1977), a buck deer in Brooks County is defined as one having hardened antlers protruding through the skin.

Miscellaneous Game Laws

Senate Bill 970 incorporates into the Parks and Wildlife Code several statutes passed by the 64th Legislature and not included in the 1975 revision. Senate Bill 426 permits the Parks and Wildlife Department to spend not more than one-half of the revenue from white-winged dove stamp sales for research and management of white-winged dove, and thus permits greater spending for the acquisition of white-winged dove habitat.

County and State Parks

House Bill 801 (June 16, 1977) repeals Articles 6078 and 6069b, Vernon's Texas Civil Statutes, which provided tax authorizations

and spending limits for the creation and maintenance of county parks. Other state law permits taxation by counties for county park purposes. Senate Bill 24 allows the Parks and Wildlife Department to issue State Parklands Passports (permitting the holders to enter state parks and other recreational sites without charge) to persons 65 years old or over and to certain disabled veterans.

Water Safety

Under Senate Bill 1052, cities, counties, and other local governments are prohibited from imposing and collecting use fees for boats in public water. The Parks and Wildlife Department is authorized under Senate Bill 1053 to issue duplicate motorboat registration decals for numbering for a fee of \$1. Senate Bill 1054 (May 30, 1977) raises the property damage amount from \$50 to \$100 before a motorboat accident report is required to be filed with the department. Senate Bill 1055 increases the fee for issuing a motorboat or outboard motor certificate of title from \$1 to \$3.50.

VETERANS' BENEFITS AND MILITARY AFFAIRS

Very little legislation passed this session deals directly with military personnel or veterans. The most significant act in this area is House Bill 890, which restricts a veteran's right to reemployment with the state or a political subdivision of the state after service to those veterans who are discharged, separated, or released from active service within five years from the date of enlistment or call to active service. Senate Bill 24, exempting senior citizens and certain veterans from entrance fees to state parks, historic areas, and recreational areas, and Senate Bill 25, exempting certain veterans from paying fees for hunting and fishing licenses, are discussed under the Parks and Wildlife section. Senate Joint Resolution 13, relating to the veterans' land fund, is covered under the section on proposed constitutional amendments.

VALIDATING ACTS

There were several bills enacted as validating acts during the 65th legislative session. Senate Bill 1180 (May 30, 1977) validates the creation, organization, and elections of certain hospital districts, the appointment or election of directors for those districts, certain actions and proceedings taken by the directors of those districts, and the bonds issued by any hospital district.

Under House Bill 1510 (May 24, 1977), a county's acquisition of land for the expansion of a county airport is validated if the

acquisition was by purchase, gift, exchange, or a combination of these methods. Senate Bill 476 (June 16, 1977) validates certain actions of city governments in counties with populations over 1 million relating to annexation and relinquishment of extraterritorial jurisdiction and validates those cities' boundary lines. Annexation and boundary lines of certain cities and the governmental acts and proceedings of the cities since the annexation are validated under Senate Bill 895. House Bill 1233 validates the incorporation, boundaries, and governmental proceedings of general-law municipalities.

Under Senate Bill 1232, the consolidation of two incorporated cities adjoining at a place within the same county and the governmental acts performed by the resulting single city are validated if a majority of the voters in the two cities approved the consolidation. House Bill 1512 (June 16, 1977) validates the assumption of control by an incorporated city or town of the public schools within the corporate limits of the city or town if the assumption was approved at an election. All governmental acts and proceedings of the election, assumption, and governing of the district are validated.

House Bill 939 (May 30, 1977) validates orders of the Texas Aeronautics Commission issued before January 1, 1977, granting certificates of public convenience and necessity for the operation of intrastate air carriers. Senate Bill 1292 validates certain time warrants issued by counties with a population of less than 1 million. According to House Bill 2248, all governmental acts, proceedings, and transactions since September 1, 1975, are validated if they relate to a contract for the seal coating of certain roads or parking areas executed between a private contractor and an incorporated city or town acting on behalf of itself, an independent school district, and the county in which the city or town is located. House Bill 869 validates unenforceable property tax levies of any taxing unit and changes in junior college district boundaries, and it provides measures to prevent or mitigate unenforceable property tax levies in the future.

PROPOSED CONSTITUTIONAL AMENDMENTS SPECIAL ELECTION--NOVEMBER 1977

Senate Joint Resolution 3 proposes a constitutional amendment to permit denial of bail pending trial to a person accused of a felony (other than a capital felony) committed while on bail for a prior felony for which he has been indicted or involving the use of a deadly weapon after having been convicted of a prior felony.

Senate Joint Resolution 5 proposes a constitutional amendment authorizing the legislature and political subdivisions to grant ad

valorem tax relief to preserve cultural, historical, or natural history resources.

Senate Joint Resolution 13 proposes a constitutional amendment to authorize issuance of an additional \$200 million in bonds for the veterans' land fund and to allow surviving widows of veterans to purchase land under the veterans' land program.

Senate Joint Resolution 18 proposes a constitutional amendment to increase the size of the court of criminal appeals to nine judges and to permit that court to sit in panels of three.

Senate Joint Resolution 19 proposes a constitutional amendment providing that a refundable assessment voted by agricultural or marine producers associations is not a tax.

Senate Joint Resolution 30 proposes a constitutional amendment changing the name of the State Judicial Qualifications Commission to the State Commission on Judicial Conduct. The amendment would also increase the size of the commission from 9 to 11 members, expand its disciplinary powers, and make changes in procedures.

Senate Joint Resolution 49 proposes a constitutional amendment to authorize the legislature to allow banks to exercise banking and discounting privileges by use of electronic devices.

GENERAL ELECTION--NOVEMBER 1978

House Joint Resolution 37 proposes a constitutional amendment to extend the civil jurisdiction of justices of the peace. Justices of the peace are given exclusive jurisdiction in civil matters involving \$200 or less, unless the district or county courts have exclusive jurisdiction of the matter, and concurrent jurisdiction with county courts in matters involving more than \$200 but not more than \$500, unless the county courts have exclusive jurisdiction of the matter. The legislature is authorized to grant justices of the peace concurrent jurisdiction with both the county and district courts when the amount in controversy exceeds \$500 but not \$1,000.

House Joint Resolution 42 proposes a constitutional amendment authorizing political subdivisions, including special districts, to issue bonds and lend their credit for fire-fighting purposes.

Senate Joint Resolution 44 proposes to amend Article VIII of the Texas Constitution by authorizing cities and towns to issue bonds in order to finance the revitalization of blighted downtown areas. Payment of the bonds is to be provided from tax increment financing. Senate Bill 635 will implement the provisions of this resolution if the proposed amendment is adopted by the voters.

Senate Joint Resolution 45 proposes a constitutional amendment authorizing the legislature to increase the number of justices on a court of civil appeals, permitting those courts to sit in sections, and requiring the concurrence of a majority of justices in a section to decide a case.

Senate Joint Resolution 48 proposes a constitutional amendment repealing Section 51-b of Article III of the Texas Constitution, thereby abolishing the State Building Commission and State Building Fund.

Senate Joint Resolution 50 proposes a constitutional amendment to exempt products and services supplied to state agencies by the handicapped from the requirement that the contract for the products and services be awarded to the lowest bidder. The amendment also eliminates the requirement that the contracts be approved by the governor, secretary of state, and comptroller.

Senate Joint Resolution 53 proposes a constitutional amendment to authorize the legislature to exempt solar and wind-powered energy devices from ad valorem taxation.

Senate Joint Resolution 55 proposes a constitutional amendment authorizing political subdivisions to issue revenue bonds for the purpose of developing employment opportunities.

ADDENDUM

House Bill 305 raises from \$15,000 to \$25,000 the minimum contract amount requiring performance and payment bonds from the prime contractor for certain construction contracts with a state governmental or quasi-governmental entity. The act also prohibits entities from requiring bonds for contracts below \$25,000 and raises from \$15,000 to \$25,000 the maximum contract amount on which subcontractors may have a lien for materials or labor.

APPENDIX

Certified Appropriations Out of General Revenue
65th Legislature

(Prepared by Legislative Budget Board)

Bill Number	Description	1977	1978	1979	Running Total
S.B. 330	Omnibus Courts Bill	\$ 400,000	\$	\$	\$ 400,000
H.B. 372	District Attorney 220th Dist.	10,334			410,334
S.B. 536	P.U.C. Supplement	368,013			778,347
H.B. 3	Highway Bill		200,000,000		200,778,347
S.B. 219	Rural Medical Education	130,000			200,908,347
S.B. 336	Higher Education Utilities--Supp.	15,799,729			216,708,076
S.B. 679	Dept. of Corrections--Supp.	2,265,000			218,973,076
S.B. 744	Workmen's Comp.	1,700,000			220,673,076
S.B. 1253	Comptroller--Judiciary	4,000			220,677,076
S.B. 850	Sec. of State--Voter Registration		292,700	152,500	221,122,276
S.B. 1275	Atty. Gen.--Workmen's Comp.		80,560	87,060	221,289,896
H.B. 612	Teacher Retirement	60,851,000			282,140,896
H.B. 1575	Insurance Claims	304,451			282,445,347
H.B. 1799	Energy Development	1,500,000			283,945,347
H.B. 2266	Ag. Exp. and Animal Health		210,000	210,000	284,365,347
H.B. 1469	TWU, UT, U of H--Flood Damage	1,427,941			285,793,288
S.B. 754	Emp. Retirement System--Reserve	19,489,267			305,282,555
S.B. 1323	Atty. Gen.--Fire Damage	67,000			305,349,555
H.B. 510	General Appropriations				
			2,902,877,806	2,748,039,647	5,956,267,008
			<u>\$3,103,461,066</u>	<u>\$2,748,489,207</u>	<u>\$5,956,267,008</u>
	Column Totals and Cumulative Total	<u>\$104,316,735</u>			

LEGISLATION VETOED BY THE GOVERNOR

Bill No.	Subject	General Reason for Veto
H.B. 355	Establishing jurisdiction to determine election contests relative to boards of anti-poverty agencies in the district courts.	Unclear whether the bill includes private entities and political subdivisions. Its scope and effect uncertain.
H.B. 364	Relating to advances for travel expenses of state officers and employees.	Can create a fiscal liability for a state agency which may not be adequately covered in the agency's appropriation. Also provides an opportunity for misuse of state funds.
H.B. 371	Increasing the amount of exemption from ad valorem taxation of household furniture.	The legislature made the bill effective only upon adoption of a constitutional amendment. Since the legislature did not pass the proposed amendment, the bill is of no effect.
H.B. 930	Allowing a court to release a juror for an excuse either entirely or until some other day in the term.	Restricts the discretion of the courts, which under present law are allowed to release a juror either entirely or until some other day in the term. Flexibility is desirable, especially in jurisdictions that do not have large numbers of potential jurors.
H.B. 997	Relating to decreasing the penalty for criminal nonsupport of a child.	Weakens the deterrent effect of Texas law with regard to the obligation of out-of-state parents to support children residing in this state.

<u>Bill No.</u>	<u>Subject</u>	<u>General Reason for Veto</u>
H.B. 1592	Relating to interpreters for deaf persons in judicial proceedings and confessions.	Conflicts with S.B. 157, which was signed by the governor. The rights of deaf persons will not be sacrificed since current law provides for an interpreter for a deaf person accused in a criminal proceeding and for a deaf party or witness in a civil case.
H.B. 1776	Relating to the regulation of methods of dispensing ice to the public on a self-service basis.	This responsibility should be dealt with through local ordinances if a problem of health exists.
H.B. 1811	Relating to the assessment and collection of ad valorem taxes on property not validly assessed.	Includes no standards for the determination whether a prior assessment was valid and few safeguards to protect a taxpayer from periodic reopening of tax bills he has already paid.
H.B. 1856	Requiring a security deposit to be placed with the clerk of the court to cover the costs of service of process in suits to enforce the collection of delinquent property taxes and providing an alternative method of service of citation in those cases.	Would penalize those taxing authorities that aggressively attempt to collect delinquent property taxes. If the taxing authority is in continual process of filing suits to collect these taxes, the deposits required by the bill would remain with the clerk indefinitely, creating an added expense for taxing authorities.
H.B. 1908	Relating to the conduct of joint elections by one or more political subdivisions.	Requires the tax assessor-collector of the counties involved to list on each voter's registration certificate all of the single-member districts in which

Bill No.	Subject	General Reason for Veto
		the voter is entitled to vote, which is an expensive undertaking not required of any other tax assessor-collector in the state.
S.B. 34	Prohibiting violations of speed limits between 55 and 70 miles per hour from being charged against a driver's record for the purposes of determining availability of or rates for motor vehicle insurance or determining driver's license suspensions.	Would endanger as much as \$614 million in federal highway funds over the next two years. Also, the declining death rate on Texas highways in recent years appears to be attributable in large part to the reduced maximum speed limit.
S.B. 69	Creating a new procedure proposed to lessen the adverse impact of public works projects on fish and wildlife resources.	Under existing law, inter-agency planning councils have been established to coordinate planning efforts of state agencies, and the councils have ample authority to discover and remedy disagreements between state agencies without the additional layer of bureaucratic hearings and review that the bill would require.
S.B. 83	Relating to classes of persons not qualified to vote.	Amends a section of the Texas Election Code that is due to be revised. The total revision will be of greater benefit than a piecemeal approach.
S.B. 142	Relating to establishment of uniform guidelines for non-faculty personnel administration for employees of public institutions of higher education.	Constitutes an unnecessary addition to the administration of higher education and fails to take into consideration differences in our colleges and universities and in the areas of

Bill No.	Subject	General Reason for Veto
		Texas served by those institutions.
S.B. 440	Relating to licensing of speech pathologists and audiologists.	Any abuses that exist within the fields of speech pathology and audiology are not of the degree that require the creation of a new regulatory state agency.
S.B. 697	Relating to regulation of coin-operated amusement machines by political subdivisions.	Would eliminate the ability of cities and towns to tax, regulate, or prohibit billiard tables which are coin-operated. Cities and towns would lose revenue and the ability to control establishments in which the devices are operated or to consider the presence of such machines for zoning purposes.
S.B. 747	Conferring on certain housing authorities the right to commission peace officers.	Applies to the city of Dallas only. The authorization of another level of law enforcement in one city at the local level is unnecessary.
S.B. 866	Relating to penalties for offenses of arson and criminal mischief.	Penalties are applicable regardless of whether or not a person intended to collect insurance on the damaged or destroyed property or even knew that the property was insured. Under present law, a person who damages or destroys his own property for the purpose of defrauding an insurer is guilty of theft. These provisions are adequate without crim-

<u>Bill No.</u>	<u>Subject</u>	<u>General Reason for Veto</u>
		inalizing one who has no intent to defraud an insurer.
S.B. 941	Permitting the posting at the courthouse door of service of citation in suits to collect delinquent property taxes in which the costs of citation by publication exceed the amount of the taxes due and owing.	The Supreme Court of Texas has full power and authority to modify the Texas Rules of Civil Procedure where changes are appropriate. The state and other taxing units should follow the strictest demands of due process and provide adequate notice to all persons who are delinquent in their taxes.
S.B. 943	Authorizing home-rule cities to create additional municipal courts by ordinance.	Encompassed within S.B. 1173, which was signed by the governor and which provides a more comprehensive approach to the subject matter.
S.B. 1059	Relating to venue in a rape prosecution.	Identical to H.B. 1963, which was signed by the governor.
S.B. 1152	Relating to presuming the intent of a victim in a criminal case if he used a deadly weapon in certain circumstances.	Unnecessarily tampers with the law permitting a person to use force to protect himself or another from violent attack. Present law on self-defense and defense of another is clear and precise and affords ample protection to a victim of an attack while discouraging unnecessary violence.
S.B. 1182	Prohibiting the use of criminal convictions by state licensing agencies to suspend, revoke, or deny an occupational license.	Requirement in most of the state's occupational licensing statutes that "good moral character" be exhibited by a licensee or applicant leaves discretion

Bill No.	Subject	General Reason for Veto
		with a state licensing agency. The flexibility of this type of requirement is preferable to the automatic rule established in this bill.
S.B. 1226	Relating to accessibility of information held by certain governmental bodies.	Would amend present law to allow the custodian of the records of governmental agencies and bodies to reveal any information in his custody at his discretion unless it was specifically prohibited by the law. Would encourage unwarranted litigation as well as upsetting the balance between a citizen's right to access to public documents and a person's right to privacy which is provided in the present Open Records Act.
S.B. 1332	Relating to payment of jurors.	Does not provide sufficient safeguards in removing control of certain county funds from the hands of the official who was elected for that purpose.
S.C.R. 118	Instructing the senate enrolling clerk to amend the caption in S.B. 747.	Makes certain corrections in S.B. 747, which was vetoed by the governor, and is therefore unnecessary.

RESOLUTIONS AUTHORIZING INTERIM STUDIES

House Concurrent Resolution 27

Subject: Utility rate structures

Composition: Public Utility Commission of Texas

Duties: The commission is directed to study alternatives to the rate structures presently used by public utilities in the state.

Assistance: None stated

Financing: None stated

Senate Concurrent Resolution 62

Subject: College loan programs

Composition: The special interim committee is composed of three members of the senate appointed by the lieutenant governor, three members of the house of representatives appointed by the speaker of the house, and two members of the Coordinating Board, Texas College and University System, appointed by the board chairman. The committee chairman is to be appointed by the lieutenant governor.

Duties: The committee shall study the options of state involvement in loan programs for college students.

Assistance: The Coordinating Board, Texas College and University System, is requested to furnish staff assistance.

Financing:

Actual expenses of the study shall be paid equally from the general expense fund of the house and the contingent expense fund of the senate.

Senate Concurrent Resolution 104

Subject:

Texas Legislative Council's continuing study of problems and needs of handicapped Texans.

Composition:

The project is to be directed by a Texas Legislative Council study committee appointed by the council chairman.

Duties:

The Texas Legislative Council is authorized to enter into interagency contracts with the State Commission for the Blind as may be necessary to assist the commission in fulfilling federal requirements for continuing statewide studies of the needs of handicapped persons.

Assistance:

The study committee is to be assisted by a citizen advisory commission of 10 members, five to be appointed by the lieutenant governor and five by the speaker of the house.

Financing:

The necessary travel and other expenses incidental to the operation of the study shall be paid by the council from funds budgeted for this purpose under terms of the interagency contracts.

Senate Concurrent Resolution 111

Subject:

Special education

Composition:

The special interim committee is composed of a member of the senate

appointed by the lieutenant governor, a member of the house of representatives appointed by the speaker of the house, a representative of the Legislative Budget Board designated by its director, a representative of the Texas Legislative Council designated by its executive director, and a representative of the Central Education Agency designated by the commissioner of education. The committee members shall elect the chairman.

Assistance:

An advisory commission of nine persons knowledgeable about various aspects of special education shall be appointed by the committee.

Financing:

Actual expenses of the study shall be paid equally from the general expense fund of the house and the contingent expense fund of the senate.

Senate Concurrent Resolution 322

Subject:

Undue hindrance of trade and tourism along the Texas-Mexico border

Composition:

The Special Committee on Trade and Tourism created by S.R. No. 377 of the 64th Legislature.

Duties:

The special committee is directed to continue its study of undue hindrance of trade and tourism caused by lack of adequate bridges and facilities along the border, by the lack of sufficient U.S. Customs and U.S. Immigration and Naturalization personnel, by the devaluation of the Mexican peso, and by other various specified factors.

Assistance:

None stated

Financing:

Operating expenses of the committee shall be paid from the contingent expense fund of the senate.

Senate Resolution 720

Subject:

Diabetes Mellitus

Composition:

Board of the South Texas Affiliate of the Diabetes Association

Duties:

This board shall coordinate a study of all of the state, public, or private agencies which deal with education, screening, training, treatment, and collection of data regarding Diabetes Mellitus.

Assistance:

All state agencies shall assist with this study as necessary.

Financing:

None stated

Senate Resolution 741

Subject:

Juvenile crime

Composition:

A subcommittee of the Senate Finance Committee

Duties:

This committee shall study juvenile offenders and the civil and criminal jurisprudence system which deals with juvenile delinquents.

Assistance:

None stated

Financing:

The expenses of this study shall be paid from the contingent expense fund of the senate.

Senate Resolution 793

Subject:

Railroad grade crossings

Composition: Senate Jurisprudence Committee

Duties: The Senate Jurisprudence Committee shall study and evaluate the dangers caused by railroad grade crossings.

Assistance: The Texas Department of Highways and Public Transportation, the Texas Department of Public Safety, the Texas Railroad Commission, and railroad companies operating within the state shall assist in this interim study.

Financing: None stated

Senate Resolution 796

Subject: Product liability laws

Composition: Senate Jurisprudence Committee and Senator John Traeger

Duties: The committee shall study product safety and product liability problems in Texas.

Assistance: None stated

Financing: None stated

Senate Resolution 349

Subject: Local ad valorem property taxes and funding of public education

Composition: The committee shall be composed of five members of the senate, to be appointed by the lieutenant governor.

Duties: The committee shall study the possible replacement of local ad valorem property taxes for the support of public schools with a tax on the products of petroleum refineries or with some other desirable

form of taxation.

Assistance:

None stated

Financing:

The sum of \$50,000 shall be appropriated from the contingent expense fund of the senate to defray the operating expenses of the committee incurred in conducting the study.

Senate Resolution 471

Subject:

Gulf Coast waste disposal

Composition:

The Texas Coastal and Marine Council, in cooperation with the Gulf Coast Waste Disposal Authority, the Texas Water Quality Board, and other interested and knowledgeable parties shall undertake the assessment.

Duties:

An assessment shall be made of the need for a perpetual care fund for hazardous wastes, including (a) an evaluation of current and projected waste volumes and disposal problems; (b) alternative institutional arrangements for disposal of waste; and (c) ways of financing and managing a perpetual care fund for waste disposal facilities.

Assistance:

None stated

Financing:

None stated

Senate Resolution 581

Subject:

Texas beaches

Composition:

The committee shall be composed of 11 members, to be appointed by the lieutenant governor: seven senators; an elected or appointed county

official from the Gulf Coast area; an elected or appointed municipal official from the Gulf Coast area; a private citizen with a background in environmental affairs; and a private citizen with a background in tourism development.

Duties:

The committee shall study the recreational, ecological, safety, and economic aspects of the use of Texas beaches by the general public.

Assistance:

The Texas Legislative Council shall provide assistance to the committee in the conduct of the study. The Parks and Wildlife Department, the Industrial Commission, the Tourist Development Agency, the Texas Coastal and Marine Council, and the Department of Public Safety shall provide special resource assistance to the committee. All other state agencies and departments are requested to cooperate with the committee in its study.

Financing:

The operating expenses of the committee shall be paid from the contingent expense fund of the senate.

Senate Resolution 684

Subject:

Uniform group life and health insurance plan for public school teachers and state employees

Composition:

A subcommittee of the Senate Committee on State Affairs shall be appointed by the committee chairman to conduct the study.

Duties:

The subcommittee shall study the desirability and feasibility of authorizing a uniform group life and health insurance plan for public

school teachers and state employees.

Assistance:

None stated

Financing:

The operating expenses of the subcommittee shall be paid from the contingent expense fund of the senate.

Senate Resolution 702

Subject:

Acquisition and development of park land near urban areas

Composition:

A subcommittee of the Senate Committee on Natural Resources shall be appointed by the committee chairman to conduct the study.

Duties:

The subcommittee shall study the need to acquire and develop park land near urban areas to provide city dwellers with convenient recreational opportunities.

Assistance:

All state agencies and departments are requested to cooperate in the conduct of the study.

Financing:

The operating expenses of the subcommittee shall be paid from the contingent expense fund of the senate.

TOPICAL INDEX

Administrative Procedure	10, 15
Agencies and Departments, State	13
Aging	42
Agriculture and Livestock	89
Alcoholic Beverage Control	91
Alcoholism and Drug Abuse	106
Animals	94
Appropriations	8, 135
Attorneys	71, 77
Banks and Credit Companies	97
Business and Business Regulation	95
Campaign Spending and Reporting	44, 46
Cities	80
Civil Procedure	78
Civil Remedies and Liabilities	77
Coastal Resources	24
Colleges and Universities	33
Common Carriers	101
Constitutional Amendments, Proposed	130
Consumer Protection	101
Corporations and Associations	95
Corrections	58
Counties	86
Court Officers	70
Courts and Court Personnel	68
Criminal Procedure	55
Departments and Agencies, State	13
Drivers' Licenses	49
Education, Public	30
Education, Higher	33
Elections and Voting	42
Employees, State	11
Energy	122
Environmental Protection	93
Examining and Licensing Agencies	17
Family Law	38
Finances, State	2, 4
Financial Institutions	97
Firemen and Policemen	84
Fish Laws	125
Game Laws	125
Guardians	74, 102
Handicapped Persons	108
Health, Public	104
Higher Education	33
Highways	52
Historical Resources	23
Hospitals	106
Industrial Development	96
Insurance	109
Insurance, Agents and Adjusters	111
Insurance, Life and Health	113
Insurance, Medical Malpractice	115
Insurance, Motor Vehicle	112
Interim Studies	143
Judges	66
Juries	72
Juvenile Boards	72

Juveniles and Juvenile Delinquency	40
Labor	120
Lands, Public	23
Lands, Sales and Transfers	23, 37
Law Enforcement	57
Legislature	1, 10
Licensing and Examining	17
Livestock	89
Local Government	80
Marriage and Divorce	38
Medical Malpractice	115
Mental Health and Mental Retardation	102
Motor Vehicles	48
Natural Resources	122
Officials, State	11
Oil and Gas	123
Parent and Child	38
Parks and Wildlife Regulation	125
Penal Laws	53
Policemen	84
Pollution Control	93
Probate	73
Public Health	104
Public Lands	23
Public Schools	1, 30
Public Utilities	99
Retirement Systems, Public	20, 66
Safety	48, 102, 129
Savings and Loans Associations	97
Special Districts	27, 89
State Departments and Agencies	13
State Finances, Taxing and Spending	4
State Land Transfers	23, 37
State Officials and Employees	11
Sunset Law	3, 13
Taxing	4
Teachers' Retirement	21
Traffic Safety	48
Utilities	99
Validating Acts	129
Vehicle Registration	49
Veterans Benefits	129
Vetoed Bills	137
Water	25
Water Development	26
Water and Utility Districts	27
Water Quality	93
Water Rights	26
Welfare	40
Women	120
Workers' Compensation	117

NUMERICAL INDEX

House Bills

<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>
3	3,52	298	80	524	78
8	125	300	14	532	92
22	4	305	132	533	107
30	37	307	105	557	69
34	86	308	105	565	120
39	55	314	14	567	28
42	47	318	18,77	570	28
52	89,95	321	106	578	27
81	51	322	85	580	10,15
87	117	337	35	589	11
95	107	344	105	591	88
97	55	355	137	609	68
105	11	360	114	612	2,9,22
117	47	364	137	615	67
126	7,90	368	48	617	22
128	16	371	137	620	13
136	32	372	71	624	86
144	60	377	34	625	14
145	71	388	127	628	16
148	15	390	28	633	15
149	15	400	85	641	50,109
151	58	407	7	649	49
157	32	409	84	656	81
164	127	416	47	657	83
168	87	432	85	661	89
178	80	433	71	669	125
188	35	436	44	670	59
190	7	443	46,71	678	53
202	15	444	120	679	53
223	51	447	50	685	29
230	19	450	11	694	7
243	35	451	58	699	88
244	43	452	77	700	125
247	31	455	118	704	111
248	36	459	49	705	111
280	127	467	128	706	111
282	34	497	38	712	111
285	43	502	70	720	103
289	74	506	80	744	31
292	125	509	37	748	13
293	125	510	2,9	751	59,87
		514	97	754	40

Bill Number Page

760 121
761 31
769 105
782 68
783 88
785 98
786 78
788 31
789 35
801 87,128
809 71
810 62
812 12,72
815 91
817 120
828 11,66
830 68
858 8
860 73
869 130
876 107
879 51
880 39,103
883 81
884 32
890 13,129
893 43
899 18
901 19
905 57
916 90
920 126
924 40
926 62
927 107
928 107
930 137
936 32
937 115
939 130
940 23
942 70

Bill Number Page

944 36
945 2,58
949 2,58
951 57
955 31
961 36
971 52,86
972 5
975 127
987 27
991 98
997 137
1008 47
1012 34
1022 70
1023 107
1026 101
1029 107
1033 57,72
1046 118
1048 2,115
1067 32
1076 5
1082 98
1089 54
1092 62
1110 37
1121 51
1124 54
1125 42
1126 6
1128 90
1140 87
1146 40
1150 27
1152 38,68
1157 26
1158 97
1166 127
1168 96
1177 113
1178 52

Bill Number Page

1180 29
1181 54
1184 24,50
1187 75
1193 37
1194 128
1195 128
1201 73
1203 5
1213 29
1214 54
1218 84
1222 72
1226 97
1232 113
1233 130
1242 109
1245 26
1262 7
1269 53
1271 57
1276 127
1278 82
1280 70
1292 26
1304 18
1309 106
1311 73
1319 63
1322 57
1324 51
1330 5
1338 95
1355 65
1357 128
1382 62
1384 113
1396 58
1399 127
1408 28
1410 34
1412 82

Bill Number Page

1416 98
1421 59
1424 70
1429 94
1430 94
1437 95
1441 98
1442 98
1445 75
1448 109
1453 59
1456 128
1461 12
1466 72
1469 9,37
1482 65
1484 8
1488 63
1490 99
1491 101
1505 26,89
1510 88,129
1512 130
1517 93
1519 62
1536 49
1537 52
1547 91
1550 100
1551 68
1557 98
1560 93
1574 104
1575 9
1592 138
1594 36
1599 94
1602 25
1604 107
1631 93
1646 90
1653 123

Bill Number Page

1660 45,47
1662 94
1679 35
1685 32
1688 7,93
1700 4,43
1703 7
1712 47
1713 25,37
1721 88
1722 114
1729 128
1733 62
1739 20
1741 87
1743 45
1745 90
1747 29
1755 41
1760 125
1772 49
1773 45
1776 138
1784 39
1788 47
1791 91
1792 118
1793 118
1796 86
1799 3,123
1808 25
1811 138
1812 42
1813 6
1826 98
1830 6,79
1831 7
1832 46
1833 44
1836 20
1840 118
1845 44

Bill Number Page

1846 104
1849 113
1850 114
1852 113
1854 38
1855 35
1856 138
1860 8,96
1876 41
1878 18
1880 109
1883 99,123
1886 111
1897 90
1898 94
1908 138
1921 114
1931 48
1936 56
1941 44
1945 73
1963 56
1969 13
1972 83
1976 88
1990 97
1994 37
2007 54
2015 111
2028 6
2036 93
2058 46,83
2059 78,101
2067 8
2068 82
2079 97
2080 7
2104 81
2115 106
2129 89,123
2132 29
2133 29

<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>
2134	62,65	2183	113	2218	128
2136	29	2184	30	2219	127
2138	29	2187	127	2223	29
2141	62	2189	36	2225	128
2142	62	2190	19	2228	37
2146	29	2191	89	2234	29
2147	62	2193	71	2235	29
2148	29	2194	11	2236	33
2151	29	2195	70	2238	62
2152	32	2196	73	2240	73
2153	127	2197	24	2243	107
2159	127	2202	29	2244	29
2162	121	2206	127	2245	68
2163	71	2207	69	2248	88,130
2165	29	2209	128	2253	70
2166	62	2210	28	2254	123
2171	29	2212	29	2257	55
2172	19	2213	29	2258	33
2173	107	2215	69	2259	128
2180	29	2216	82	2266	9
2182	108	2217	73		

House Joint Resolutions

<u>Resolution Number</u>	<u>Page</u>
37	70,131
42	27,131

Senate Bills

<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>
7	118	109	50	198	49
12	21,66	110	7	200	11
18	4	111	35	202	83
20	12	113	71	203	89,95
23	127	114	44	205	95
24	129	117	125	208	18,77
25	127,129	119	66	209	39,57
26	6	120	105	210	54
28	128	125	29	212	85,88
30	39	133	89,119	213	39
32	55	135	118	215	95
34	3,139	137	29	217	39
37	12	139	107	219	9
38	102	142	139	222	127
39	2,58	143	39	233	70
47	14	144	19	249	40
52	55	146	58	250	34
53	76	147	2,20	252	118
54	3,13	148	77	258	19
59	7	150	60	265	88
61	55	151	2,53	266	62,67,73
65	68	152	2,59	271	119
66	74	154	41	281	72
67	19	155	56	283	31
69	139	156	56	284	48
72	48	157	2,56	285	103
75	95	159	41	286	125
76	50	168	16	288	125
77	109	170	77	289	126
78	110	180	88	290	126
81	38	182	103	291	126
83	139	183	103	292	126
87	41	184	70,88	301	126
91	33	185	3,124	302	126
93	38	186	79,95	303	126
94	105	187	88	305	16,121
95	38	188	33	310	54
96	128	190	114	311	53
97	10	191	118	324	25
98	128	192	65	330	3,60
101	106	193	8	331	10
102	16	194	52	332	13

Bill Number Page

333	80
334	55
336	10
337	72
338	84
343	21,67
353	35
359	107
360	100
362	89
365	67
366	7
368	3,61,64,71
373	27
382	7
383	14
387	69
388	99
391	117
393	16
397	40
398	19
406	15
407	99
411	85
412	51
415	126
416	107
426	128
428	19
429	119
432	125
433	51
438	83
440	140
443	84
446	18
450	34
451	45
453	65
456	98
459	85

Bill Number Page

465	119
468	69
469	99
471	56
475	99
476	130
479	120
481	54,78
484	103
485	75
489	54
495	42
496	32
499	85
501	20
507	30
508	119
513	14
517	64
519	64
522	62
526	101
527	101
532	19
535	20
536	10
543	22
545	16,25
548	41
549	50
552	107
553	69
559	21
561	87
563	17
565	17
567	126
569	62
576	122
577	24
578	24
579	94

Bill Number Page

583	111
586	70
592	15
595	5
598	36
604	35
605	8
609	38
612	14
616	76
617	76
620	106
624	126
625	89
626	5
629	33
631	96
632	26
635	6,131
637	36
638	14
641	18
643	121
656	17
657	17
658	103
661	99
664	101
667	98
672	59
676	104
679	10
684	100
685	99
688	110
689	110
690	74
695	60
697	140
698	23
699	75,102
700	102

<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>
701	13,58	833	69	937	55
707	45	835	66	939	101
713	107	836	108	940	112
714	5	839	92	941	141
718	73	843	42	943	141
719	58	846	82	945	98
726	106	849	66	949	21,67
730	91	850	43	950	28
731	92	851	19	951	115
735	114	852	112	952	102
737	16	857	96	957	29
742	97	858	119	961	81
743	25	859	20	969	30
744	10,119	865	63	970	128
746	57	866	140	973	89
747	140	867	120,121	974	28
750	38	868	92	977	39
754	21	872	32	981	24
756	21	875	84	986	58
757	89,95	877	110	993	53,86
758	37	882	99	998	99
759	14	883	121	999	59
762	104	888	106	1017	73
764	94	889	76	1025	33
773	108,109	892	36	1033	57
779	17	893	17	1037	30
784	77	894	104	1040	31
785	18	895	130	1042	96
787	96	896	120,122	1043	56
788	96	900	106	1045	21
791	76	911	30	1046	100
792	22	912	15	1052	129
793	22	914	62	1053	129
801	123	915	73	1054	129
804	17	917	12	1055	129
806	62	918	103	1057	65
810	25	919	6	1059	141
812	66	920	62	1062	78
815	5	922	65	1064	87
821	104	930	78,101	1067	127
822	127	934	52	1070	56
831	88	936	5	1078	5

<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>	<u>Bill Number</u>	<u>Page</u>
1079	28	1188	107	1260	115
1082	26	1189	41	1268	25
1091	45	1195	27	1271	107
1094	46	1199	107	1275	119
1101	112	1201	25,37	1279	73
1102	96	1207	124	1282	30
1103	100	1208	83,96,100	1283	80
1137	114	1209	81	1284	6
1139	3,14,25	1210	107	1286	124
1143	100	1211	108	1289	30
1148	12	1212	21	1291	128
1150	46	1213	62	1292	88,130
1152	141	1214	29	1294	8
1153	39	1223	63	1296	29
1158	110	1225	59	1297	113
1160	46	1226	142	1300	36,104
1161	16	1229	12	1301	73
1164	67	1231	81	1302	49
1168	20	1232	130	1303	8
1171	110	1235	70	1304	91
1172	3,122	1246	25	1306	108
1173	66	1248	44	1310	12
1180	108,129	1250	124	1311	107
1182	141	1252	53	1319	25,37
1183	12	1253	10	1323	9
1184	65	1256	112	1325	40
				1327	33
				1332	142

SENATE JOINT RESOLUTIONS

<u>Resolution Number</u>	<u>Page</u>
3	130
5	5,130
13	129,131
18	64,131
19	131
30	67,131
44	6,131
45	65,132
48	14,132
49	131
50	132
53	132
55	132